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DOMESTIC MONEY LAUNDERING: THE FIRST NATIONAL BANK OF BOSTON

HEARING

BEFORE THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

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* Exhibit Nos. 1-20 were introduced on p. 4. Exhibit No. 21 was introduced on p. 29.

DOMESTIC MONEY LAUNDERING: THE FIRST NATIONAL BANK OF BOSTON

TUESDAY, MARCH 12, 1985

U.S. Senate,
Permanent Subcommittee on Investigations
of the Committee on Governmental Affairs,
Washington, DC.

The subcommittee met, at 10 a.m., pursuant to call, in room SD-342, Dirksen Senate Office Building, under authority of Senate Resolution 354, section 13(a), dated March 2, 1984, Hon. William V. Roth, Jr. (chairman of the subcommittee) presiding.

Members of the subcommittee present: Senator William V. Roth, Jr., Republican, Delaware; and Senator Warren B. Rudman, Republican, New Hampshire.

Also present: Senator Alfonse M. D'Amato, Republican, New York.

Members of the professional staff present: Daniel F. Rinzel, chief counsel; Eleanore J. Hill, chief counsel to the minority; Katherine Bidden, chief clerk; Chuck Morley, chief investigator; Howard Shapiro, David Glendinning, Barbara Kammerman, and Paul Barbadoro, staff counsels; Sarah Presgrave, executive assistant to the chief counsel; Leonard Willis, minority investigator; and Townsend Feehan, staff assistant.

[Senators present at the convening of the hearing: Senators Roth and Rudman.]

OPENING STATEMENT OF SENATOR ROTH

Chairman Roth. The subcommittee will please be in order.

Today we are continuing a series of hearings that were commenced well over a year ago on offshore banking and money laundering. Since then, this has become a matter of great interest. Barely a day passes but that a leading newspaper or magazine does not have some article bringing out new charges, new allegations.

For example, today in the Wall Street Journal, there is an article headlined as, "How the Mob Is Using Financial Institutions To Disguise its Gains." And in the subhead it says, "Banks Eager for the Business; Aren't Suspicious Enough Up Front."

We are very concerned about this problem of money laundering, both domestically and internationally. It is a matter of real concern to this subcommittee because we firmly believe that it is the glue that holds criminal activity together.

Frankly, I don't think we will have any success in the war against crime until we are successful in striking at the heart of those money-laundering operations.

There are some bright stories, and I want to compliment many of our law enforcement agents in this area, but at the same time, I have to say that I deeply regret that the evidence is such that it seems neither the private institutions nor the regulatory agencies fully understand the importance of this matter.

The President's Commission on Organized Crime recently said that: "There was a deliberate indifference by financial institutions toward suspicious transactions by their customers." It is almost as if many of our bank officials and others play Pontius Pilate, ignoring the problem and wiping their hands of it.

The same is true of our regulators. I regret to say that there is evidence that they are not properly trained. Some bank examiners, for example, were not even aware of the requirements of the Bank Secrecy Act. This is a situation that must be changed.

We are here today to try to discover several things. First, we want to have a factual accounting as to how a bank the size and prestige of the First of Boston could find itself in this current situation.

On February 7, this bank, one of our Nation's largest, pled guilty to a felony information charging they failed to file appropriate forms on $1.2 billion in international currency transactions in violation of the Bank Secrecy Act.

Second, we need to explore, to the degree possible, how pervasive this type of noncompliance of the act is.

Again, I would point out in this morning's papers, it is reported that about 45 banks may have broken cash reporting rules. So this is not an isolated instance, but a very broad-spread practice.

Frankly, I wish we could have held these hearings earlier because I think we might have prevented some of the unfortunate leaks that have occurred. In fact, I find it reprehensible and the height of irresponsibility that such things as the Treasury list of nine Massachusetts banks has been made available to the press. We concede that this list has little significance as to whether or not the banks named are actually in noncompliance with the Bank Secrecy Act, and I am afraid these banks on that list have had their reputations damaged, apparently, for the sake of headlines.

Third, we also want to find out why the enforcement agencies, specifically the Comptroller's Office, have failed to detect and report violations during the regular bank examinations.

Fourth, we want to know what changes may be necessary in the law or regulations to ensure compliance.

In making such changes, we also have to be aware of the right of privacy for innocent customers and clients, a matter that requires careful balancing of interests.

I would like to at this time to particularly commend Senator Rudman for the role he has played in this matter. He was the one that initially brought to the attention of the subcommittee the Bank of Boston issue. Senator Rudman has been extremely active in our offshore banking investigations, and he immediately realized the significance of the Bank of Boston's noncompliance and urged that we move ahead to get the complete facts.

Now, there is no question in our minds that the Bank Secrecy Act is an indispensible link in the prosecution chain of major crimes, particularly those involving organized crime, drug traffickers, and major frauds. We on this subcommittee have seen the ravages of these crimes that take the life savings from some and even the lives of others. We have seen the act as one of the most effective tools in the arsenal of U.S. prosecutors. Therefore, we don't take the Bank Secrecy Act lightly, nor do we consider it a technical regulation to be enforced in an agency's spare time.

We are going to hear testimony today that, unfortunately, indicates to us that our view of the importance of the Bank Secrecy Act is not as widely shared as it should be, either within Government or in the private sector.

Many people ask how the First of Boston could find itself in its current situation, and I will tell you how. They did not take the act seriously, either as a corporation or as individuals within the corporation. They may as well have thrown the Comptroller notices, the law, and the regulations in the trash. And the bank examiners, where were they? They were in the bank; they were even sent back to the Bank of Boston by the Treasury Department to specifically check on Bank Secrecy Act compliance. They were even told where to check, what to check.

I can understand that 50 bank examiners spending weeks examining a bank the size of the Bank of Boston might overlook a minor technicality, but I don't know how they could miss a violation of the size and scope of this one when they were told specifically where and what the violation was.

Now, I regret to say, this is not the first time the bank regulatory agencies have been called to task for the lack of adequate enforcement of the Bank Secrecy Act. Way back in 1977, during the Carter administration, hearings before the House Committee on Government Operations revealed that the bank regulatory agency examiners had failed to detect reporting violations at the Chemical Bank of New York prior to the prosecution in that case.

In 1979, the Treasury Department conceded to the House Banking Committee that there were few referrals by the banking regulatory agencies. In 1980, the Senate Banking Committee spoke about the dismal and lackadaisical enforcement efforts of the banking regulatory agencies. In 1981, GAO found that the compliance monitoring of the bank regulatory agencies was inadequate, cursory, or nonexistent.

As to the question of how widespread this total disregard, this almost scornful disregard of the Bank Secrecy Act is, I hesitate to ask the question. We just pointed out something like 45 additional banks may be in noncompliance and are seeking some kind of immunity. We found a number of violations in the Boston area.

I will not read the entire statement, but will, without objection, include it in the hearing record as if read.[1]

I just want to sum up by saying that I consider the epidemic of drug abuse to be one of the most serious problems facing this country. We can lose an entire generation of youth to the drug problem. As I have already indicated, money laundering is the glue that holds this all together. We cannot tolerate our major banks providing the vessel for that glue by ignoring the provisions of the Bank Secrecy Act. This is society's problem; not just law enforcement's. Banks can no longer hide behind the assertion that they are not to be helpful in law enforcement. Banks are part of this society and, as such, they have a responsibility to assist in this battle.

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[1] See p. 87 for the prepared statement of Senator Roth.

I don't believe in burying banks in massive regulations. I don't think it is too much to ask that they follow simple regulations, simple instructions. I don't think it is too much to ask that they inquire when customers are bringing grocery bags full of small bills through the front door.

So what do we do now? Do we look at more banks in Boston? Do we turn over the rocks nationwide? I don't condone Shawmut's neglect of the Bank Secrecy Act, but at least it had the guts to jump into the middle of this storm. Suffice it to say the situation is not over.

I am requesting the General Accounting Office to examine the Bank Secrecy Act regulatory process in detail. I have asked that they scrutinize all agencies with oversight responsibility for the act. If there are, as their appears to be, systematic problems, it is time we addressed and resolved them.

Before we begin with our witnesses today, I would like to introduce the IRS statistics into the record, as well as the chronology of events prepared by the staff, which highlights the major events in the First National Bank of Boston.

Mr. Rinzel. Mr. Chairman, those are Exhibits 1 through 20. With your permission, I will introduce them into the record at this time.

Chairman Roth. Without objection.

[The documents referred to were marked "Exhibit No.'s 1 to 20," for reference, and may be found in the Appendix on p. 147.]

Chairman Roth. At this time, I would like to call upon Senator Rudman.

OPENING STATEMENT OF SENATOR RUDMAN

Senator Rudman. Mr. Chairman, thank you very much, and let me start out simply by thanking you for bringing the full resources of this subcommittee to bear on this investigation, in, I believe, record time for this subcommittee or almost any other committee.

I particularly want to thank our chief counsel, Mr. Rinzel, and his staff for a marvelous job of bringing this to a hearing 2½ weeks after the chairman decided that the hearing should be held.

Throughout our history, this subcommittee has devoted considerable attention to investigations of organized crime and narcotics trafficking. Today the subcommittee continues this process, not by investigating these criminal organizations themselves, but by instead focusing on the laws which were intended to prevent criminals from using established financial institutions to control the vast profits garnered by their illegal activities.

Why look at banks if our concern is with organized crime? Because organized crime and narcotics trafficking are essentially cash businesses, which often need to launder the cash generated by criminal activity.

Although banks are frequently unwitting partners in such money-laundering schemes, the fact remains that they are essential links in the criminal process. Laws which break these links and require reports of unusual cash transactions are, therefore, essential if we are to take the profit out of organized crime.

The Bank Secrecy Act is potentially one of the most effective tools available to law enforcement in the war against the predatory practices of organized crime. However, the act is only as effective as those who administer it. Unfortunately, the record of enforcement for this act has been nothing short of abysmal.

As the chairman pointed out, there has been a persistent lack of adequate monitoring and enforcement procedure by the regulatory agencies responsible for overseeing compliance with the act.

I daresay that if the Federal Bureau of Investigations were as casual in its approach of the enforcement of our criminal law, John Dillinger would probably still be roaming the Midwest.

Consider the fact that in 1980, the Senate Banking Committee studied the implementation of the act in South Florida. The committee's chairman at that time characterized the enforcement record of the agencies responsible as dismal and lackadaisical. A year later, a study of the Bank Secrecy Act by the General Accounting Office concluded that existing compliance monitoring procedures were inadequate and that actual compliance checks by the responsible agencies were either cursory or nonexistent.

Now here we are 4 years later and apparently nothing is changed. I suppose we can take some solace in the fact that this lackadaiscial attitude appears to have been bipartisan in that it was carried out with an equal lack of enthusiasm under both Democratic and Republican administrations alike.

As we will hear today, the Office of the Comptroller of the Currency examined the Bank of Boston and the Shawmut Bank for compliance with the Bank Secrecy Act, and yet either failed to detect or failed to report over a billion dollars in unreported cash transactions at the Bank of Boston and nearly $200 million at the Shawmut Bank.

In fact, the situation is even worse than it appears at first glance. As we learned during our investigation, the Treasury Department notified the Comptroller's Office of potential Bank Secrecy Act violations at these two institutions as far back as 1982 and instructed the Comptroller to examine each for currency reporting compliance.

In the last few weeks, the problems faced by the Bank of Boston and banking regulators have received considerable attention. Despite this attention, there are questions which remain unanswered.

I look forward to today's hearing, not as an opportunity to assign blame for something that has already happened, but rather to look at what occurred within the context of a larger problem of money laundering and compliance with the Bank Secrecy Act.

As this hearing proceeds, we will look for some answers to these unanswered questions. We will attempt to find out how one of our Nation's largest banks could have failed to report over a billion dollars in foreign bank cash transactions. We will also attempt to determine how this same bank allowed members of a well-known family, which this subcommittee linked to organized crime in 1963, to walk into a branch of a bank with bags stuffed with small bills and purchase more than $2 million in cashier's checks without reporting these transactions to the Treasury.

And last, we will attempt to determine just what it is going to take to make the banks and the Federal regulators follow the provisions which are clearly outlined in the Bank Secrecy Act and enforce the law.

Mr. Chairman, I thank you again for the alacrity with which you brought this committee to bear on the problem, and I look forward to the hearing.

Chairman ROTH. Thank you, Senator Rudman.

Senator D'Amato, under the rules of the subcommittee, everybody must be sworn in, even Senators. So we ask you to please rise.

Do you swear the testimony you will give before the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Senator D'AMATO. I do.

Chairman ROTH. Thank you. I want to thank you for being here today. Certainly you have been playing a very strong role of leadership in this area of money laundering, and I want to congratulate you both for your interest and your initiatives. Will you please proceed with your testimony?

TESTIMONY OF ALFONSE M. D'AMATO, U.S. SENATOR, STATE OF NEW YORK

Senator D'AMATO. First of all, Mr. Chairman, let me thank you for the opportunity that both you and the Vice Chairman, Senator Rudman, have given to me and my staff to work with you and to be here today to offer this testimony, and also to have the opportunity of asking some questions of my own of the various witnesses.

I would like to commend you for the speed with which you have moved to undertake this important area, Senator Rudman, and also your staff, Dan Rinzel your counsel, who has been most cooperative and generous in his time and support; Paul Barbadoro, another staffer who has helped in cooperation with our own Banking Committee so that we would not conflict but rather would complement one another.

Mr. Chairman, in my opinion, the problems that we see with the First Bank of Boston, and with others, are just the tip of the iceberg. I cannot believe that we may not find example after example throughout this country of the same kind of activity.

Mr. Chairman, I have a comprehensive statement that I would like to submit for the record, in the interest of time, and then just simply summarize some of the points we attempt to make.

Chairman ROTH. Without objection, so ordered.[2]

Senator D'AMATO. Mr. Chairman, on January 28 of this year, the Banking Committee held a hearing in New York. I point out that day because that was 10 days prior to the revelation with respect to Boston's largest bank. Ten days prior. And at that time, we introduced legislation or talked about legislation, Senate bill 571, to deal exactly with this problem of money laundering; to attempt to give to the law enforcement officials the kinds of tools that will make it more difficult. It will bring about comprehensive treatment. I am pleased to say Senator Rudman has joined with me in cosponsoring this legislation. Let me touch on what it does.

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[2] See p. 90 for the prepared statement of Senator D'Amato.

It would give to the Treasury Department—let me compliment the Treasury Department. That is something I usually don't do. But it would give to them the administrative power of subpoena with regard to these transactions to supplement the jurisdiction of the Justice Department. No one can supplement the grand jury, but certainly to aid in the investigations in Treasury and that way develop many more cases and leads.

We have to consider that there are only so many grand juries that can be undertaken at one time and only so many criminal investigations, but had that been the case, I think as Senator Rudman has indicated back in 1982, Treasury was already beginning to signal problems.

Second, it would make money laundering a crime with penalties equal to those now imposed on drug dealers. That is another bill that we have introduced, S. 572. I think that is important. I think there are those who would deal with the money launderers, or would deal with the criminal enterprise, who undertake this. And we have had testimony where part of organized crime is assigned just to the job of money laundering. That is their function. They get paid so much a day to do this. They come in and cash checks at a particular rate, and that rate may go anywhere from 1 to 6 percent. That is what they get in order to launder that money.

And so we have got to make that a crime, and also those bank officers who would participate knowingly in this kind of activity should be held accountable to the full measure of the law because they do aid and facilitate in that drug trafficking.

Third, pursue the foreign trails, whether they be in the Bank of Boston or other cases, to ascertain as best as possible was that money sent from a foreign country, was it tainted, was it drug money, was it the proceeds of organized crime?

That is easier said than done, but I certainly think we have to pursue it.

Fourth, I touch on the Comptroller and other regulatory agencies. They have got to make the Bank Secrecy Act enforcement a priority. They simply have not. They have failed. You might say, well, beat them about the head, there is no useful purpose. I would suggest that now is the time for them to make some meaningful efforts in this area. In the day of the computer, there is no reason why these transactions should not be reviewed quickly. It does not have to be a monumental effort on their part, and they have done an abysmally poor job.

Fifth, all banks, foreign and domestic, have the duty to set up procedures to guarantee compliance, and I commend the chairman for asking the General Accounting Office to come in and to make that kind of overview and then to report back to your committee as to the kinds of compliance that should be performed and the kind of overview and procedures that will see to it that this will not continue.

Then an issue that might raise the hackles of some, those who are afraid of Big Brother looking at them. I admit that it is controversial. I think we have to look at the rules that now limit what information banks can provide law enforcement authorities. For example, today you have a situation if a teller receives less than the $10,000, let's say $7,000 in cash on a regular basis. Someone comes in who looks suspicious, acts suspicious and would give everyone the reason to believe that he or she was getting these moneys from tainted sources. There are really liabilities attendant with the bank giving that kind of information, suggesting to Treasury and to others that this may be a source of money that comes from a criminal enterprise.

Now, certainly I think no one looks to impede the honest transactions or to become Big Brother in the day-to-day life of citizens, but I would suggest that the proper balance has not been struck when the banks and their employees are fearful, and under penalty of law cannot make known realistic suspicions in terms of money transactions of the kink I have described to you.

I believe it might take some courage, and I would hope that the media would understand that it is one thing to stand and say you know we are now looking into the private lives of people as opposed to good honest law enforcement efforts. If we want the banks and their employees to cooperate, we also have to give them, I believe, this added opportunity.

In the final analysis, all the law enforcement without the citizenry and their participation becomes most difficult.

Mr. Chairman, I thank you for the opportunity of making these points known. I also would hope we can get the kind of support for a passage of S. 571 and S. 572 that I think would augment our battle against organized crime.

Chairman ROTH. Senator D'Amato, again, I personally congratulate you for your great interest and your two initiatives. I think you have pointed out some areas that need careful review and perhaps reform. I have to say I feel that a lot of our banks and a lot of our regulatory agencies don't realize this is the age of the computer, and that many things are practical today that once were not. I think the law ought to be reevaluated in that light. I have no questions. Senator Rudman?

Senator RUDMAN. No questions, Mr. Chairman.

Chairman ROTH. We would welcome you if you want to appear on the panel. You are not under oath as a questioner.

Senator D'AMATO. Thank you very much, Mr. Chairman.

Chairman ROTH. Thank you, Senator D'Amato. Next we would like to call forward Mr. Weld, the U.S. Attorney from Massachusetts.

Mr. Weld, would you please remain standing and raise your right hand?

Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. WELD. I do.

Chairman ROTH. Thank you. Please be seated. First, let me say we are very pleased to have you here today. I would like to personally congratulate you for your vigorous action in this area of the

Bank Secrecy Act. You can either read your statement or summarize it. In any event, it will be included in its entirety as if read.[3]

TESTIMONY OF WILLIAM F. WELD, U.S. ATTORNEY FOR THE DISTRICT OF MASSACHUSETTS

Mr. WELD. Thank you very much, Mr. Chairman, Mr. Vice Chairman. I am happy to have the opportunity to appear before the subcommittee to discuss very briefly our experiences with criminal enforcement of the provisions of the Bank Secrecy Act, which is title 31 of the United States Code, in the Commonwealth of Massachusetts.

I do have a prepared statement which I will tender to the subcommittee. However, I think orally I will just touch on a few of the points in that statement, if that is all right with the subcommittee.

By way of introduction, the statute in question, as the subcommittee is aware, calls for the filing with the Government of three types of reports which are very useful to prosecutors and investigators in cases invoiving organized crime, narcotics, and public corruption. Those forms are, first, the so-called Currency Transaction Report, or CTR, which has to be filed with Treasury whenever there is a cash transaction involving $10,000 or more.

Second, when anybody brings more than $10,000 in currency into or out of the country, a form called the "Currency or Monetary Instrument Report" has to be filed with the U.S. Customs Service; that is the CMIR.

Third, if anybody has a foreign bank account with more than $5,000 in it, they have to file a foreign bank account report with the IRS.

I would like to emphasize from the point of view of a prosecutor in the field, the great usefulness of title 31 for us in criminal investigations. It is true as——

Chairman ROTH [interposing]. You don't consider this is just some redtape; this is a very important——

Mr. WELD [interposing]. It absolutely is not a dead letter, Mr. Chairman. It is a fact there have not been many criminal prosecutions for violation of title 31 or the Bank Secrecy Act, but that does not mean the statute has been gathering dust somewhere on the shelf since its enactment. That statute is used every time one of the forms which is filed in compliance with the law is introduced in evidence in a Federal criminal trial, and that happens everyday in our Federal courts in Massachusetts; and if it happens everyday in one district, I daresay it happens all around the country.

If you have a historical narcotics conspiracy prosecution and you have to prove that the smugglers had a lot of cash at some time in 1980 or 1981, frequently the only way you can prove that, and yet a conclusive way of proving that, is to go back and get from the local bank in Podunk a copy of the CTR showing on those days Mr. Big came in with $400,000 in $20 bills.

So the evidence which is available to prosecutors as a result of this statute is frequently not only available from no other source, but it is frequently decisive in the prosecution for narcotics conspiracy.

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[3] See p. 95 for the prepared statement of William F. Weld.

It is also true that if a CTR, or Cash Transaction Report, is not filed for whatever reason, then criminal investigators and prosecutors are going to be lacking that evidence 2 or 3 years down the road if it should turn out that transaction was part of an illegal enterprise. And I emphasize the words "for whatever reason," because it is not necessary for a banker to be in cahoots with organized crime for those reports to be useful to Government prosecutors and investigators.

So a failure of bank compliance with title 31, the Bank Secrecy Act, is of critical importance to us in the field, no matter what the reason for the failure, whether it was a criminal conspiracy or whether it was merely inadvertence. I think the attention of the subcommittee to measures designed to increase the level of bank compliance with title 31 is just exactly the tonic that is needed.

There are a couple of ways that a title 31 case can be of use to us. First, it can result in charges against financial institutions which, of course, as I think we have seen recently, have a general deterrent effect in the banking community. There are two other ways these forms can be helpful.

You may get a lead or, as I have indicated, corraborative evidence out of an entry on a CTR or CMIR that proves such and such a person had a large amount of currency, cash, or cashier's checks at a given point in time.

The third way is that the names appearing on a banks exempt list, the list of customers which regularly engage in large cash deposits and withdrawals as a normal course of their retail business, that can be of interest to prosecutors as well, which is the case in this Bank of Boston investigation which recently occurred in Boston.

We set up a financial investigative task force in 1982 in the district of Massachusetts based on the experience of the organized crime strike force in that district and also on just the feeling that Boston was a big financial market in terms of the amount of money under management and on deposit there.

We compiled in early 1983 a list of banks that we thought would be worth investigating criminally. I just point out here for prosecutors setting up these task forces, the information which forms the basis for the target list is going to include any intelligence in the hands of the prosecutive offices from any previous cases that were brought in that district.

I will say we also had in the case of the Bank of Boston investigation reports from the Treasury Department which I have referred to in my prepared statement.

There have been three cases which have been concluded in recent months in Boston—the Rockland Trust Co. paid a $50,000 fine; the Bank of Boston paid a $500,000 fine; and in the *Ausonian Credit Union* case, two individuals have pled guilty. All three of these cases were prosecuted by Justice Department special attorney Patrick Walsh, who had transferred to Massachusetts from Operation Greenback in south Florida. I think that illustrates the value of experience in these matters. It is easy to bring these cases when you know how, as Mr. Walsh does.

With respect to the current status of the Massachusetts investigations, the Government looked into the failure by the Bank of Boston to file these international cash transaction reports and certain domestic matters involving the Bank of Boston, and both are continuing as part of the negotiations by the bank which led to the $500,000 fine.

We reserve the right to prosecute individuals or to prosecute the bank further if the evidence should show that any bank employee acted in concert with anybody outside the bank in connection with the failure to file, or that the bank employee believed that this failure to file might assist anyone outside the bank in illegal activity.

Without naming any names, I will say that a formal authorization for criminal investigation, for a number of other banks in the Boston area, has been approved. On several others, the requests have been submitted and those requests are pending approval, which is expected.

Perhaps the best thing I can do is, on the basis of our relatively limited experience in one district, suggest lessons that we have learned as to ways in which there might possibly be made improvements in the smoothness and efficacy of criminal enforcement under title 31.

I would say, first of all, that from the point of view, again, of a prosecutor in the field, it will be helpful to us if we could obtain printouts from the Treasury Department showing CTR filings, CMIR filings for a given district, for a given bank, for given periods of time, simply on request, without having to jump through any hoops, without having to make a preliminary showing that this is exactly why we want the information; this is exactly why we can't get it from another source.

You do run up against the privacy concerns that Senator D'Amato alluded to. Again, from my point of view, I think you could make a case for the proposition that the pendulum has swung too far in the direction of privacy, and we have got to have it swinging back a little bit in the direction of the notion that the public has a right to every man's evidence. We are talking about grand jury subpoenas here.

The second suggestion which occurs to us as a result of the experience in Massachusetts relates to the exempt lists. My understanding is these lists are maintained now by each financial institution and are available to Treasury upon request. But even so, I have seen IRS in the field have to jump through little hoops to get that list out of main Treasury.

You can't always be sure that Treasury would have requested the exempt list for some bank where it may turn out it is very interesting.

I would think, and I can't really think of a strong privacy argument to the contrary that you might want to consider, or the appropriate authorities might want to consider, having these exempt lists filed with main Treasury by all financial institutions as a matter of course, or perhaps have them filed with IRS in Ogden, UT, which is where the CTR information is filed.

Bearing in mind that when you talk about the exempt list, you are talking about being exempted from a requirement of law that these things otherwise have to be filed, it is hard for me to see a valid privacy argument that the institution has a right not to have main Treasury know that it is on the exempt list.

A third thing I would simply mention is that the nondisclosure requirements of the Tax Code, section 6103, I think, dating from the post-Watergate reforms as to when tax information can be shared with various types of parties, those requirements continue to be a hindrance to law enforcement in the field. It may be that it is supposed to be. But we found, for example, when we set up this financial task force with IRS and the Customs agents, even though they were IRS special agents working on these narcotics investigations, and their ultimate object is to arrive at a tax/narcotics conspiracy, they were not permitted to look at tax information because the theory was they were working on currency cases so they couldn't look at tax information.

Even more so, we as prosecutors were not permitted to look at tax information.

The last thing I will mention, and this will probably be addressed by later speakers, is that any measures that could be taken to get the banking regulatory agencies, the examining authorities, more directly involved in the game, as it were, of criminal law enforcement would be, I think, helpful.

Some people say that these regulatory agencies' principal concerns should be the soundness of the institutions that they are examining, rather than crime spotting or being a cop on the beat, but it seems to us that those notions are hardly mutually exclusive. If there is an institution where fraud and noncompliance with the law are allowed to run rampant, obviously that institution is not going to remain sound over the long run.

Specifically, some steps that could perhaps be considered would be further training programs in the area of fraud spotting or title 31 compliance for the bank examiners; and perhaps the development of a standard referral procedure so it will be easy to get a case over to the U.S. attorney.

I notice that the President's Organized Crime Commission has suggested that a line be added to the CTR form, "Check here if you think something is wrong," perhaps something even as simple as that. A regulation that would require all banking regulatory agencies to report crime or suspected crime to law enforcement authorities would help. That is already in place for at least one of the regulatory agencies, but to have that across the board would be helpful.

Amendments to the Right to Financial Privacy Act, or at least training for bank regulatory examiners as to how to deal with that act and not steer too wide of disclosure because of a fear of that act, I think would be helpful.

Last, I learned relatively recently that some of the bank regulatory agencies submit quarterly reports to main Treasury, "we noticed thus and such at this bank, this was curious; we found this in the Boston area, this was curious." I would love to see those. We don't get those now in the ordinary course. It seems to me that also could be done without violence to the considerations behind the Right to Financial Privacy Act.

Those are the only points I would like to make. I would be happy to try to address any questions the subcommittee members might have.

Chairman ROTH. Thank you, Mr. Weld. Let me ask you with respect to the IRS and the secrecy laws applying there as to what information they can disclose and make available to you—do they readily make available the CTR's or currency information they have, or do they interpret the laws so broadly it applies to that as well?

Mr. WELD. That information we obtained from the Financial Law Enforcement Center in Treasury, so-called TFLEC, when is an outfit in main Treasury. We do not obtain that directly from local IRS. I had suggested in the written statement that the standards there could be perhaps somewhat loosened if there is a prosecutor that has a good-faith basis for believing those forms would be necessary.

They have been pretty good at TFLEC about giving us the information. I do believe the standards have varied from time to time. Sometimes we will be told, no, we won't give you anything except over $50,000, and I think there is a Treasury regulation which has been observed sometimes that you are supposed to have articulate, specific allegations about a given institution before you can get information about that institution, but that's not a major problem.

Chairman ROTH. In your examination of banks, how would you characterize the attitude of the private institutions in following through on the requirements of the Bank Secrecy Act?

Mr. WELD. I think the chairman was perhaps correct that the Bank of Boston, to say the least, underestimated the storm that would follow its guilty plea in the early part of February. I think that that case alone, and certainly the hearings by this subcommittee, will be responsible for a certain amount of consciousness raising. A number of the banks that either are under criminal investigation or that are under consideration in the Boston area are cooperating very actively with our office now. And by cooperating, I don't mean simply negotiating as to the scope of production which is going to be made in response to a grand jury subpena. I mean coming in saying, OK, we found indications of trouble. We have conducted a 1-week investigation, this is what we found; this looks bad; we're going to keep looking; we'll keep you informed every step of the way; let us know if you don't want us to investigate; let us know what you want to do. This is the kind of attitude we like to see.

I think that the attitude now is very good. I think that the chairman is correct that historically the act was not taken with the seriousness with which it should have been.

Chairman ROTH. Do you have any reason for that lack of interest or that lackadaisical attitude on the part of the bank?

Mr. WELD. I don't really, Mr. Chairman. It is more work, obviously. I don't know whether—well, I've heard of instances where lower level bank officials have expressed a view, and I emphasize lower level, that it gives you a competitive edge if your customers know that you don't file all those forms. That is how to drum up business, is to put out the word on the street that you are not a real watchdog when it comes to reporting people's private financial affairs.

I would emphasize that is not a management level at any of the banks whose names have come into public view.

Not being a banker, I don't know to what extent the noncompliance could have been as a result of competitive considerations.

Chairman ROTH. Let me ask you this question: Do you find this attitude with respect to other regulations, or is this just symptomatic of title 31? Is there a general attitude of noncompliance in other areas?

Mr. WELD. I don't know, Senator. This is the only set of regulations where we have gotten involved in criminal prosecutions.

Chairman ROTH. But the law and the regulations, while they perhaps could have been written with more particularity, more clarity, are nevertheless understandable; would you agree with that?

Mr. WELD. Oh, very definitely, Mr. Chairman.

Chairman ROTH. So it can't be excused on grounds that it is obscure? The average Harvard lawyer, or Boston lawyer, should be able to interpret these regulations, isn't that true?

Mr. WELD. If his or her attention were directed to them, there is no question about that. You may hear from later speakers; I don't know.

Chairman ROTH. How would you characterize the attitude of the regulatory agencies, the Comptroller of the Currency, the Federal Reserve, Federal Deposit Insurance Corporation—how vigilant have they been in administering the law and regulations?

Mr. WELD. Well, in the Bank of Boston investigation, Mr. Chairman, the experience with the Office of the Comptroller of the Currency was not what one might have hoped for from a prosecutive point of view. I believe that agents and attorneys from the Massachusetts financial task force met with local representatives of OCC—the Comptroller of the Currency—in late 1982 and early 1983, and first were unable to obtain a copy of the Comptroller's report of examination on the bank because of privacy reasons, or whatever; ultimately were able to ascertain only that there was no problem with respect to title 31.

In late 1984, at the direct suggestion of a senior official in main Treasury, our people got together again with local representatives of OCC and went over the international filings, which were the subject of the half a million dollar fine and the guilty plea.

My understanding—I was not present—my understanding is the OCC representatives pointed out that Swiss banks do act as clearinghouses for European banks and repatriation of small denomination bills to the United States and that, therefore, they concluded these transactions appeared not out of the ordinary. The problem with that is it doesn't address the title 31 question, is this complying with the Bank Secrecy Act.

I have found personnel of the Office of the Comptroller of the Currency in Washington, and specifically Mr. Robert Serino, to have an excellent attitude toward helping law enforcement, and not only after this whole matter became public, that dates back to 1982.

Chairman ROTH. How about the examiners, those on the firing line?

Mr. **Weld**. The examiners on the firing line were the individuals in Boston with whom our agency attorneys met, Mr. Chairman.

Chairman **Roth**. I have one more question. In the March 18 issue of Business Week, there was a cover story on money laundering which indicated that information coming out of the Bank of Boston investigation led the Irish Government to confiscate nearly $1 million from a Dublin bank account, belonging to the outlawed Irish Republican Army. Can you tell us whether this report is true?

Mr. **Weld**. There was no connection with our investigation whatever, Mr. Chairman.

Chairman **Roth**. So you have no knowledge as to the accuracy of that report?

Mr. **Weld**. I believe it is not accurate to say there was a connection between our investigation and the confiscation——

Chairman **Roth** [interposing]. So the report is not accurate?

Mr. **Weld**. I believe that is right.

Chairman **Roth**. Senator Rudman.

Senator **Rudman**. Thank you, Mr. Chairman. I only have a couple questions for Mr. Weld. Let me first say to the U.S. attorney for the district of Massachusetts, we in New Hampshire are pleased to see the vitality and the attitude you bring to your office, not only in this field but in many others.

We in New England are very much a region; Boston is the hub of that region, certainly financially, and we are delighted that we have a U.S. attorney in place there who is willing to take on the tough cases. I am sure if the true history of this is known, that this was a very difficult case.

Let me ask you really just one question to clarify something you said in your testimony. You said that the plea bargain that you reached with the Bank of Boston reserved unto the U.S. attorney the right to bring other prosecutions for other violations not specifically covered by that bargain; is that correct?

Mr. **Weld**. No, we could go back even for the violations covered by that bargain if the evidence disclosed that there was somebody in the bank who was acting in cahoots with someone outside the bank. In other words, it is only if the so-called systems failure, administrative error, the bare act of nonfiling by the bank, for whatever reason, which is negotiated away by the plea and the fine. If we went back and found that whole transaction was a result of some unholy alliance with a narcotics trafficker, all bets would be off.

In fairness to the bank, I think I should say that it is possible that the speculation about connection between international dope traffickers and this $1.2 billion has been greatly overdone. The bank did enter a guilty plea at a very early stage of our investigation of that $1.2 billion so that even if asked, I would not be able to tell the members of the subcommittee exactly where that $1.2 billion came from and where it went to. We aim to find that out, obviously, but as of this point, any statement that that $1.2 billion is associated with any specific illegal activity would be premature from my mouth.

Senator **Rudman**. But that is the subject, as I understand it, of an ongoing inquiry by your office.

Mr. **Weld**. That is correct, Senator.

Senator **Rudman**. Also, and I want to tread very carefully here because, as a former prosecutor, I don't want to compromise in this subcommittee anything you are doing.

We understand you are looking into the circumstances surrounding the handling of large sums of money for the exchange of cashier's checks to see whether or not there was any complicity at lower levels of that bank in that particular area?

Mr. **Weld**. That is correct, Senator.

Senator **Rudman**. And that has to do with the exempt list on which the Angiulos' enterprises, essentially real estate enterprises, were bringing in money in exchange for cashier's checks.

Mr. **Weld**. It has to do with that in part, and also other matters, as the vice chairman indicates, at the lower level.

Senator **Rudman**. I think that is important to put on the record here. It seems to me there are those who quickly reach the conclusion somehow that the U.S. Attorney's Office for the Commonwealth may have struck a bargain too quickly and maybe at too low a price and given up rights.

Obviously, that is totally untrue. The plea bargain you struck is historically in accord with many other similar plea bargains, and you continue with what you are doing there. So, obviously, the book is still open on that.

Mr. **Weld**. Yes, Senator, the agreement is in writing and on file with the court.

Senator **Rudman**. Thank you very much.

Chairman **Roth**. Senator D'Amato.

Senator **D'Amato**. Thank you very much, Mr. Chairman. Mr. Weld, I think you alluded to it, and I made reference to it. It seems hard for me to believe that this kind of activity that we have seen at the First Bank of Boston and the other institutions in the Boston region, would be confined just to this area, and I would suspect that it is much, much more widespread. Do you care to comment on that? What would be your thinking as a law enforcement officer?

Mr. **Weld**. This geographic area or this area of regulations?

Senator **D'Amato**. This area of regulations and violation of the money laundering itself.

Mr. **Weld**. I don't really know. I suppose the thing that stands out about these regulations is the consequences of failure to comply with them can be so spectacular. Other types of regulations we might not notice a failure to comply until a bank goes belly up.

There is a group established by the Attorney General last December called the bank fraud working group which involves representatives of the regulatory agencies and main Justice, and the FBI which, as the Senator is aware, is studying this general area and means of assuring that bank compliance with regulations generally floats upward.

Senator **D'Amato**. Let me ask you to comment, if you care to, on Treasury regulations that exempt various areas of activity from having to report. It would seem to me maybe we should take a look and ask Mr. Walker later about this. It says these are people who don't have to report transactions, daily transactions in excess of $10,000 in cash—bars, restaurants, vending machine companies. Now, I mean, to exempt vending machine companies, bars, and restaurants, it would seem to me, opens an incredible opportunity for those in organized crime and for those who would launder drug money right through these vehicles. What would your thought be on that?

Mr. WELD. I personally would love to see vending machine companies off that list. As the Senator knows, it has been not unheard of for them to become associated——

Senator D'AMATO [interposing]. That is an art of understatement on your part.

Mr. WELD [continuing]. With organized crime activity.

I think that the tightening up of the regulation on exempt lists in 1980 really solved 95 percent of the problem of looseness there. That really was a substantial narrowing of that exemption.

With respect to bars and restaurants, I am not really qualified. I would duck that one, if I could, and leave it for Mr. Walker.

Senator D'AMATO. Thank you very much. Thank you, Mr. Chairman.

Chairman ROTH. Thank you for your testimony. If you would stay, Mr. Rinzel would like to ask you one question.

Mr. RINZEL. Mr. Weld, it is my understanding that under Treasury guidelines of February 1984, title 31 information cannot be released to non-Treasury agencies unless there is in existence a multi-agency task force or possibly a grand jury. Is my understanding of that correct? Is that the way it works now?

Mr. WELD. I think there is a memorandum from Associate Commissioner Rankin describing the standards under which release of title 31 information would be permitted. I do recall the reference to a multi-agency task force. I am not sure it will be released only in response to a grand jury subpoena. I think there has to be a grand jury in contemplation, but any time you have a multi-agency financial task force involving a prosecutor, you have a grand jury at least in contemplation.

Mr. RINZEL. What is the reason for those kinds of restrictions, and do they inhibit the efforts of U.S. Attorneys to get at this problem?

Mr. WELD. They haven't inhibited us because we have had the multiagency task force. I suppose it is an easy enough thing to get IRS agents, customs agents, and prosecutors together. I would not think that would be a big stumbling block.

The thing which can be a stumbling block is if a specific showing of cause is required from the prosecutor who is writing down to TFLEC, the Financial Law Enforcement Center in Treasury, saying I would like to see the CTR information for this district for these 10 banks. If the answer comes back why, that prosecutor may decide he has other things to spend his time on.

So it's the initial showing required that strikes me as the thing that may become the lion in the path, rather than the requirement of the existence of a grand jury or multiagency task force. Those are easy enough to establish, and I think in this area, within any district having a metropolitan center, they should be established.

Mr. RINZEL. I have no further questions, Mr. Chairman.

Chairman ROTH. Thank you, Mr. Weld.

Mr. WELD. May I tender my statement?

Chairman ROTH. Yes.

Mr. Brown, please remain standing. Raise your right hand.

Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. Brown. I do.

Chairman Roth. Please be seated. Would you introduce the gentleman accompanying you, tell us in what capacity he is here?

Mr. Brown. He is an executive vice president of the bank in charge of Staff Services——

Chairman Roth [interposing]. Would the microphone be pushed up a little closer? I can't hear you, Mr. Brown.

Mr. Brown. He is a gentleman familiar with these issues and the bank.

Chairman Roth. He is on the banking staff?

Mr. Brown. Yes.

Chairman Roth. Will he be giving any testimony?

Mr. Brown. No.

Chairman Roth. What was your name again?

Mr. Brown. Richard A. Wiley.

Chairman Roth. What is his position?

Mr. Brown. Executive vice president.

Chairman Roth. Executive vice president. Mr. Brown, under our rules, you can summarize your statement, and we would incorporate the full statement as if read, but we will let you proceed as you choose.

TESTIMONY OF WILLIAM L. BROWN, CHAIRMAN, THE FIRST NATIONAL BANK OF BOSTON, ACCOMPANIED BY RICHARD A. WILEY, EXECUTIVE VICE PRESIDENT

Mr. Brown. If I could, I would like to read it very quickly. We have given you a prepared statement. This is my oral summation, Senator.

Chairman Roth. Please proceed. Your full statement will be included in the record as if read.[4]

Mr. Brown. I am William L. Brown, chairman and chief executive officer of the Bank of Boston. With me is Richard A. Wiley, executive vice president of the bank.

I appreciate the opportunity to appear before you today. I regret that the occasion for my appearance is an inquiry into the bank's failure to report its international currency transactions. I hope to demonstrate, however, that we are learning from our mistakes. As a result, the Bank of Boston, and perhaps the entire banking community, will be a more effective participant in the effort to prevent organized crime from using the Nation's financial institutions as a conduit for its ill-gotten gains.

I hope, too, that this inquiry will focus public attention on the Interim Report of the President's Commission on Organized Crime. That report should serve as the basis both for future legislation and for a cooperative effort by the banking industry to implement its recommendations. I pledge Bank of Boston's full cooperation to that end.

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[4] See p. 103 for the prepared statement of William L. Brown.

My testimony today is in two parts. In my formal, prepared statement, I have provided a detailed account of our failure to comply with currency reporting regulations and some of the actions we have taken to ensure full compliance in the future. This morning, I will simply summarize that account and describe the initiatives we have taken and will be taking.

The events of the past several weeks have taught us a painful lesson; they have taught us that we must redouble our efforts to ensure that all our employees and officers, at every level, abide by both the letter and spirit of the law. We must also recognize that financial institutions have a moral and ethical obligation to assume a greater degree of responsibility for identifying possible illegal activity. Banks must work actively to prevent their being used as conduits for money laundering.

The Bank of Boston has pleaded guilty to a failure to report international currency transactions during the 4-years following the 1980 regulation which first imposed that requirement. No one is more chagrined than I that the bank has been convicted of a crime, but to understand the circumstances surrounding our plea of guilty it is important that I explain what these international transactions involved.

International bank-to-bank currency transactions were a regular, though small, part of our business and that of other similar banks. They were made up of two entirely separate and distinct elements: The first, shipments to Boston consisting largely of small denomination bills; and the second, shipments to foreign banks consisting largely of new $100 bills. The incoming and outgoing shipments were unrelated in date and amount. No individual bank customers had access to this money; it traveled in a closed, bank-to-bank loop.

Except for our understanding that Swiss banks served as central clearinghouses for other European banks, we have no means of knowing the original source of the currency shipped to Boston by the foreign banks or of the use to which they put the currency we sent to them. I can only stress that we would not knowingly engage in, or assist others to engage in, money laundering.

As I have explained in detail in my prepared statment, the bank received the 1980 regulation requiring reporting of international shipments and distributed it to the Coin and Currency Department, which was responsible for those shipments.

Mr. Dormer, the officer in charge of that department, did not, however, appreciate the significance of the new regulations and failed to take the necessary action. That error went undetected by senior managment until the summer of 1984 when it came to our attention during the course of the Government's investigation.

There has been some controversy over the question of when we first learned of this error. In the summer of 1982, Mr. Dormer did telephone a Treasury official to discuss the separate issue of reporting domestic cash transactions, and during that conversation, the matter of international shipments apparently arose. Mr. Dormer mistakenly understood from the conversation that a currency transaction report was required only if he were dealing with an individual, and he, therefore, assumed that no reports were necessary.

The Acting Comptroller has suggested that his representatives also spoke with Mr. Dormer about international transactions during the September 1982 examination of the bank. We have no way of knowing the source of that statement, and Mr. Dormer has no memory of such a discussion.

As the Acting Comptroller recently informed Senator Proxmire, the examiners did not notify the bank during their 1982 examination that it was in violation of the international reporting requirements, and no mention of such a violation was included in the report of that examination or any subsequent report.

We are sensitive to the concerns expressed by the President's Commission that the influx of small-denomination bills from abroad may be indicative of money laundering patterns. We have always acted only for the accounts or other institutions; they are our only customers. Shipments of currency are always made or received at their explicit request, not at the instigation of Bank of Boston.

I turn now to the entirely separate matter of the domestic transactions.

The original regulations under the Bank Secrecy Act required banks to report cash transactions over $10,000 but, recognizing that many legitimate businesses deal in large amounts of cash, provided for certain exemptions from that requirement.

The regulations were amended in 1980 to limit the exempt list principally to retail-type businesses and to require reporting of cashier's check purchases, even by organizations on the exempt list.

Prompted by this amendment, the officer charged with overseeing compliance with this aspect of the regulations requested current exempt lists from all our branches, including the North End branch. Two businesses owned by the Angiulo family—Huntington Realty and Federal Investments—were on the North End list, although under the amended regulations, they did not qualify as retail-type businesses.

As I have explained in my formal statement, the bank officer raised with the branch manager the propriety of retaining these companies on the list, but she was of the opinion that they did qualify as retail customers, and he did not overrule her.

Clearly, our officer used poor judgment in retaining these customers on the exempt list, but the fact that they had been retained did not come to the attention of higher management until the Justice Department began its investigation.

The exempt list has always been available to Treasury upon request. On two or three occasions, bank examiners asked to review the list and did not call our attention to any problems. Nonetheless, retaining these companies on the exempt list was an error, and we should have caught it ourselves. We have no reason to believe, however, that any person acted out of improper motive in placing or keeping the Angiulo companies on the list.

As chairman of the bank, I take responsibility for these past failings and for ensuring that no such failings occur again.

Let me say that in the nearly 2 years since the Government's formal investigation began, the bank has pursued its own intensive inquiry into these events. Of course, we took immediate measures to ensure compliance with reporting requirements, but we have taken longer range steps as well.

In 1982, one bank officer had final authority over the exempt list. Now we require a branch manager to conduct a background check before recommending that a customer be placed on the list. That recommendation must have higher approval by a compliance officer, and ultimate inclusion on the list requires approval of the law office. Finally, we are now voluntarily sending our exempt list to the Treasury Department every 6 months.

We have also created task forces of high-ranking bank officers to undertake two missions:

First, to devise new procedures to ensure compliance with reporting requirements under the Bank Secrecy Act, drawing in large part upon the recommendations of the President's Commission on Organized Crime; and second to develop a broader general regulatory compliance program.

We are also creating a more extensive network of compliance officers at various levels of the bank. I will not go into all the details, but it is our goal to do everything humanly possible to ensure that the bank remains in compliance with this and all other applicable laws. We hope that our systems will serve as a model for other banks in developing their own reporting compliance programs.

We have already adopted one of the Crime Commission's recommendations by instituting more extensive training for managers and employees to help them recognize suspect transactions.

Moreover, we are working on a model "Know Your Customer" policy aimed at preventing individuals and businesses from gaining access to the banking system for unlawful purposes. We recognize that we and other financial institutions must join with the Congress and with law enforcement authorities to find ways, consistent with the principles of our free and democratic society, to prevent organized crime from misusing our financial system.

It is my belief that, in the long run, the greatest benefit to come from the discovery of our past mistakes will be that attention has been focused beyond the laws and regulations themselves, which we should scrupulously obey, to a concern with their ultimate purpose.

Thank you. I will be glad to answer your questions.

Chairman ROTH. Mr. Brown, I have read over your full statement, and I must say that the procedures you have now adopted appear very good. The thing that puzzles me is why this had to be the result of an investigation? Do you have a legal department or chief counsel in your bank?

Mr. BROWN. Yes, we do.

Chairman ROTH. What role do they play in administering Federal regulations?

Mr. BROWN. Well, in the past, the regulations have gone through them and they have reviewed them.

Chairman ROTH. Who is responsible for ensuring that your bank is in compliance with all regulations?

Mr. BROWN. I suppose you would say in the final analysis, the legal department, but, basically, the way we've operated in the past is that line management has had the responsibility. Each line officer had his own operation, and he would be responsible for the rules and regulations within his area, and if he wanted advice, he would go to counsel if he didn't understand the rules and regulations or needed direction.

Chairman ROTH. You have taken certain measures with respect to title 31. Have you issued any further instructions with respect to other bank regulations?

Mr. BROWN. We have looked at and are looking, Senator, at all regulations.

Chairman ROTH. Have you designated anyone responsible for ensuring compliance therewith?

Mr. BROWN. Yes.

Chairman ROTH. Who would that be?

Mr. BROWN. Well, we have a series of people. Again, the line officers are responsible. We have assigned compliance officers in various areas of the bank, and in the legal department and over and above that, the auditing department is now required to go into each of these rules and regulations.

Chairman ROTH. One of my concerns is that if this is symptomatic of compliance with other regulations, we may have a much broader and more serious problem than we even anticipate here.

Let me say this, Mr. Brown, to put it bluntly, in a way it seems like you have gotten some old-time religion if you compare your statement today submitted to this subcommittee with your previous public statements. As I say, I think the procedures you have outlined appear on the whole to be very good, but your statement is quite in contrast to what you said earlier. As I recall, you earlier made a statement, a public release on February 21, where you said that—

> I'd like to make it clear that the question of examining a customer's use of funds entrusted to the bank is not a normal part of banking practice. The act does not impose an obligation upon banks or imbue them with the authority to investigate the activities of their customers beyond the normal reporting of account information and verification of customer identity.

Today in your formal statement, you say that—

> We must recognize that bankers have the moral and ethical obligation to assume greater responsibility for compliance with the law and regulations and for identifying possible illegal activity occurring in their midst. Financial institutions must be willing to take an active role in ensuring that they do not serve as conduits for the proceeds of crime.

Why the difference?

Mr. BROWN. Senator, I don't know where you got the quote you are reading from there, but I believe what I had said is that, in the past, banks have not traditionally taken a look at the backgrounds of their customers. If someone wanted to come in and make a deposit, they were permitted to make the deposit. And, obviously, with what has occurred over the last few weeks, it would make you get the old-time religion, as we have.

Chairman ROTH. Let me point out, this is a direct quote from your press release. "The following statement was made today by William L. Brown, Chairman, Bank of Boston, dated February 21, 1985."

The thing that bothers me is we see time and again in various accounts such as in the Wall Street Journal this morning, statements to the effect that bankers have a powerful incentive not to ask too many questions about customers' business because banks depend on these customers to further their prosperity. They depend on this large volume of cheap money, funds on which they pay little or no interest.

As I say, we hear time and again that it is in the banker's interest not to do too much investigation. Do you think this was a factor in your bank? Do you think this is a factor in the banking industry generally in not pursuing actively the regulations?

Mr. **Brown**. No, Senator, it certainly isn't in our bank, and I don't think it is common in the banking industry, per se. It is possible some people do.

Chairman **Roth**. Then why didn't you comply with the law, the regulations? Your lawyers were capable of interpreting them, weren't they, the regulations under title 31?

Mr. **Brown**. As far as foreign bank-to-bank reporting?

Chairman **Roth**. Yes.

Mr. **Brown**. Senator, as I said in the statement, a circular came in; it was reviewed at various levels. It just wasn't caught, and I don't have an explanation for it.

Chairman **Roth**. Did you personally receive and review the Comptroller's advice of the 1980 change in the Treasury Department regulations?

Mr. **Brown**. I did not. My initials are on what you are looking at, Senator. At that time, I was not chief executive officer of the institution; I was president of the bank. The procedure that had been set up at that time was for the secretaries receiving any Government documents, any rules or regulations from any area addressed to the chief executive officer or the president, to send them to Mr. Wiley on my left. Mr. Wiley is a lawyer and the law department reports to him. His job was to read through them and route them to the necessary areas of the institution, and my initials appear on there because my secretary insisted that she wanted a copy of everything that came through.

Chairman **Roth**. Let me at this time yield to Senator Rudman.

Senator **Rudman**. Thank you very much, Mr. Chairman. Mr. Brown, you know, sometimes the most complex of problems have very simple answers. Maybe this is one of them. I find it difficult to comprehend, but I do not disbelieve your statement.

Just so we can understand this, let me simply have our staff clerk bring down to you a notice so we can be looking at the same notice together.

[The witness was tendered the document.]

Senator **Rudman**. It is marked now as exhibit 7 in the record. I just want to talk about it for a moment. I really only have a couple of questions for you other than that.

This is entitled, "Comptroller of the Currency, Administrator of National Banks; Subject: Banking Bulletins." It is marked received at the Bank of Boston. I want to thank, by the way, your people for their cooperation with our investigators. They were very forthcoming and we appreciate that.

At the top of it is an information item and some initials. Below that it says, "To all Chief Executive Officers of all national banks, Regional Administrators and all examining personnel." And then it lists in very clear terms, and I am not going to bore everybody with it, but it lists the new regulation very clearly.

I will have to compliment the Comptroller for little else today—[laughter]—but I certainly can compliment them for writing nonlegaleze in their information bulletins.

It says, "(1) a financial institution to file a currency report 15 days after the transaction occurs instead of 45." You must retain a copy and what you have to do. There were five points. It tells you who is exempt and so forth.

Then there are a series of initials at the top of this. This is received back in 1980, and the initials are "WLB." That is yourself?

Mr. **Brown**. That is correct.

Senator **Rudman**. Who is "EMT"?

Mr. **Brown**. Mr. Tangney.

Senator **Rudman**. He is executive vice president, Automated Corporate Services?

Mr. **Brown**. That's correct.

Senator **Rudman**. And then there is "PMS."

Mr. **Brown**. Mr. Sullivan was one of the ones that usually got most of the issuances of any rules and regulations. He was working with the branches.

Senator **Rudman**. And Mr. Sullivan was head of affiliate banking at that time?

Mr. **Brown**. That's correct.

Senator **Rudman**. Then there is "ALM."

Mr. **Brown**. He is head of the finance division.

Senator **Rudman**. Alan McKinnon?

Mr. **Brown**. Correct.

Senator **Rudman**. Executive vice president and chief financial officer at the time?

Mr. **Brown**. Correct.

Senator **Rudman**. Then there is "JFS."

Mr. **Brown**. John F. Stucke, head of the auditing department.

Senator **Rudman**. Auditor and senior vice president. Then there is "TMG," T. McLean Griffin general counsel at the time. Then there is "KRR." That would be Kenneth R. Rossano, senior vice president, director of external affairs. I guess I would call that PR. He sure has had his hands full lately if he still has his job. [Laughter.] The last on the list is "RAW", which is Mr. Wiley?

Mr. **Brown**. That's correct.

Senator **Rudman**. If I understand your answers to the Chairman, this was received; it went to every one of these very high-ranking officials at the Bank of Boston and eight people absolutely neglected to understand the import of this to the Bank of Boston; I mean, that's the explanation you want to leave us with, I take it.

Mr. **Brown**. Senator, if anyone had focused on it, had read it—we have, I think—the bank has had a long history of complying with the rules and regulations and being a good citizen in the State of Massachusetts——

Senator **Rudman** [interposing]. I don't argue that, Mr. Brown. That wasn't my question.

Mr. **Brown**. I know. All I am saying is that is the last thing we conceivably would have done because there is no gain—there is nothing to be gained. Why would we as a whole group totally avoid complying with this if we knew that it existed? It is just beyond imagination. Certainly mine.

Senator **Rudman**. If you read into my question some accusatory inflection, that was not intended.

Mr. **Brown**. I know. I can't believe it either, but it happened.

Senator **Rudman**. So essentially what we have here is eight very high-level people essentially asleep at the switch.

Mr. **Brown**. Well, either that or doing something else when they should have been perhaps reading the rules and regulations.

Senator **Rudman**. Well, that is probably the explanation. I know our investigators believe that is probably the answer. No one has accused you or the people of complicity, conspiring or anything else. It certainly makes us wonder when we sit back here and pass laws which are designed to get at this kind of problem what is going on out there. I think we passed them and assumed they were being enforced. Obviously, in this case, it was just an error of omission. I don't think anyone accuses you intentionally of doing that, Mr. Brown, because if you did, you sure are paying an awful price for it.

Mr. **Brown**. That is true. You know, Senator, I don't know why it happened. I can't give you the answer. But quite obviously, we now know that this wasn't an isolated incident. That doesn't absolve us of any guilt or blame. I am not trying to do that. I believe that hundreds of banks did not pick up the 1980 regulation. Why? I don't know, I can't tell you, and quite obviously, I am not blaming the regulators. The regulators didn't pick it up either. They would have been very helpful to us if this had been brought to our attention earlier. It would have saved us a lot of pain. I don't know what the answer is.

Senator **Rudman**. Let's go to the other side of the issue which maybe is even more difficult for me to understand. You addressed it in your statement, so I want to talk about the exempt list.

Without going into all the ancient history, the Angiulo's two real estate enterprises were on the exempt list. There were some changes in the exempt list. The list went to Treasury; came back; it had checkmarks next to those two, and then somehow, nobody paid much attention to those checkmarks.

In your statement on page 5, and I am going to read this at really the tail end of this. This is after it has come back; they have been highlighted, so at this point, nobody could have forgotten. I think this is a 1982, I believe——

Mr. **Brown**. 1982.

Senator **Rudman**. It says,

> The banking offices manager sent to each branch the names of customers who had been noted by Treasury and asked for additional information. He spoke specifically with the manager of the North End Branch concerning Huntington and Federal.

These are the two Angiulo companies.

> She asked that they be retained on the exempt list because they dealt with "consumers," and because it was not unusual for North End realty companies to collect rent and mortgage payments in cash. The banking offices manager questioned whether the companies were retail businesses but agreed to retain them nonetheless.

That is the end of your statement.

In our interview with Mr. Cox, he said that he knew now, knew then he was probably stretching the point, but decided to allow them anyway. And I understand all that to that point. Here is my question: Has the Bank of Boston now looked into what happened on there and ascertained how it could be that people who were known to everyone, including the shoeshine boy at Boston Garden, to be very notorious members of organized crime could bring in literally bags of money into the bank and exchange it for cashier's checks which were then deposited in another Boston institution in their own account? Mr. Brown, how could that have happened?

Mr. **Brown**. Well, Senator, I must say that I have asked that question over and over. We have investigated, we have had external investigations—the Justice Department investigated. We are now having our own directors, a separate committee, taking a look at it. The only explanation I can give is pure supposition that the accounts have been there for many years and simply the branch manager felt, and our investigation bore this out, that they were entitled to remain on the list.

Bear in mind that initially they were properly on the list in the sense that legally——

Senator **Rudman** [interposing]. I understand.

Mr. **Brown**. But in 1980, they should have been clearly removed from the exempt list. And the only contact with the head office coming in from the north end branch was coming in to Mr. Cox, as you saw, and he had the conversation with her and didn't report it up the line any further. It just didn't get to anyone else's attention.

Senator **Rudman**. This is very troublesome to this subcommittee. Here you have the Bank of Boston, a very good bank, good reputation, good corporate citizen, not concerned that you are tied with organized crime, but you are being used unwittingly here. Here are people who have a reputation, their names are in the Boston papers every other week; they are known in the north end of Boston, bringing bags of money into the bank and somehow that never gets passed upstairs.

I hope that is not symptomatic around the country. I hope that is an aberration in this case. Have you got a continuing internal investigation going, or is that concluded?

Mr. **Brown**. No; we have a continuing investigation.

Senator **Rudman**. Do you care to comment now as to whether or not you are looking to see if anyone at lower levels of the bank had any financial gain from these transactions?

Mr. **Brown**. We are trying to determine that, Senator, and also as I say, we have our own senior management group making an investigation, and our special director group is making their own special investigation.

Senator **Rudman**. Well, I don't——

Mr. **Brown** [interposing]. We'd accept any help, certainly any help the Justice Department will give us in this area.

Senator **Rudman**. I know Mr. Weld is looking into it. I prosecuted enough criminal cases in my life to look at something like this and be naturally suspicious when people bring in shopping bags of money and get cashier's checks, leaving no trail whatsoever, that is the most beautiful scam there is, and doing it with the prestigious Bank of Boston, knowing the upper-level management isn't aware of it. At the lower level, you have to wonder whether anybody is gaining anything from it. I know you all will look into that.

I think, Mr. Chairman, this one particular set of transactions, they are relatively small compared to the foreign transactions; I think a little over $2 million over a period of years, but nevertheless, money being taken into that bank and converted into cashier's checks, deposited into another institution in Boston, into the personal accounts of those individuals, reputed members of organized crime, it really makes me wonder whether or not we are going to be able to get at this problem.

I would say, Mr. Brown, if you want to take any solace at all out of what has happened here, I think what has happened here will maybe sensitize the American banking industry to this whole problem, and that is why some of us who believe very much in privacy and in the rights of banks and get the Government off your back are supporting Senator D'Amato's initiative because I think if there were stiff criminal penalties for people who engage in this sort of thing with any kind of willfulness, then I think people would tend to pay a bit more attention.

I appreciate your candor, and I appreciate your cooperation. I am sorry that you find yourself in this situation, but I think that we have a great deal of work to do, Mr. Chairman, in getting these laws and regulations straightened out, and when we hear from the Comptroller, I think we are going to be even more aghast at what has happened here.

Chairman ROTH. Senator D'Amato.

Senator D'AMATO. Thank you, Mr. Chairman. Mr. Brown, pursuing Senator Rudman's line of questioning, I don't find it hard to believe what took place in that north end branch at all. And let me suggest to you that there may not have had to be, and I would suggest also, as Senator Rudman has pointed out, that this is probably very, very, very widespread. Different technique maybe, different company, and I will tell you how it happens.

You have got a little branch manager there, and every week or every month you look at the bottom line, and they are under intense pressure to show profits, particularly at the branches today. And so they are most anxious to retain those accounts, individual, corporate and what not, and it becomes, and I don't assign it to your bank, but the banking system, it becomes incumbent upon them, if they want their promotion, if they want their branch to stay open, if they want to move up the line to see to it that that bottom line is a profitable one.

So I would suggest there are different kinds of abuse. It doesn't have to be that the branch manager gets paid in cash or gets the actual proceeds of turning them over, but the fact that they will be enhanced in their professional opportunities because they are turning a profit, I think we can see where people then begin to cut those corners. And unless there are meaningful sanctions to let not only the branch manager, but those who are in particular positions of authority up the line understand that no way can that be countenanced, that will continue. And that is why we say no longer should we ask for just a $10,000 fine for that transaction, but the bank and the officer responsible can be held criminally, if that is a willful failing or undertaking on their part, as well as forfeiture of all of the monies transacted in that fashion.

What do you think, in light of your experiences, about that proposed legislation?

Mr. BROWN. I have been briefed on it, Senator, and——

Chairman ROTH [interposing]. Would you speak into the microphone?

Mr. BROWN. I have been briefed on it, Senator, and I would say in general we would be very much in favor of it; also in favor of the proposals by Representative McCollum to change the Financial Privacy Act.

Senator D'AMATO. Thank you very much.

Mr. BROWN. I think both bills would be very helpful to the banking industry.

Senator D'AMATO. Just one quick one, Mr. Chairman. What is the situation with respect to the $91 million that was not reported as part of the $1.218 billion? Was that money laundering within or money not reported within or was it foreign exchange, again?

Mr. BROWN. They were bank-to-bank transactions as in our first report. In our first report, we did it very hurriedly, and we did it from summaries, and then when we had finished, we found we had missed some of the shipments, so we went back and put all the original documents together and that is——

Senator D'AMATO [interposing]. So it is the same series of transactions?

Mr. BROWN. Yes, same type of transactions; yes, sir.

Senator D'AMATO. Thank you very much, Mr. Chairman.

Chairman ROTH. Mr. Brown, I assume now you are very familiar with title 31? [Laughter.] Do you view it as an important instrument in our war against crime?

Mr. BROWN. Senator, I view it as an extremely important instrument.

Chairman ROTH. The thing, I think that leaves us all very puzzled is that in view of the importance of this legislation and the regulations, apparently many, many large responsible banks ignored it. How could that happen? I mean, one can understand that occasionally in one institution it may be overlooked—those things do happen, for better or worse. But how can it be so widespread? What does that say about compliance with regulations in general?

Mr. BROWN. Well, I read, obviously—not originally—but subsequently have read the circular. If you know what you are looking for, it is easy to find. For the average person if they are reading quickly—I think banks get so many regulations on a day-to-day basis that the people, perhaps this is supposition on my part, Senator, may not read some of the things as carefully as they should. It is obvious that for some reason or the other, the banks didn't. There is no reason for any bank to fail to comply. It is not difficult to comply with.

Chairman ROTH. And you do agree that the regulations, while somewhat inarticulate, certainly can be comprehended by competent council?

Mr. BROWN. Once you focus on it, no problem at all.

Chairman ROTH. The statement, "once you focus on it," bothers me. Does that mean that the Government has to come to you and say focus on it, or do you have an obligation to automatically comply therewith?

Mr. Brown. Senator, I think after what has gone on here in the last few weeks, certainly in our institution, the other banks will have learned from our experience that rules and regulations must be read very carefully in the future.

Chairman Roth. To your knowledge, has this matter of title 31 ever come up in the ABA for discussion?

Mr. Brown. To my knowledge, no. It could have. We would have to check with the ABA.

Chairman Roth. What can we do or what should we do to ensure compliance with these regulations? Are you saying one of the problems is there are too many regulations?

Mr. Brown. No, that is not what I said, Senator. I said we do get hundreds of changes over the course of the year from various State and Federal agencies—including Treasury—and people get busy, as you know. There is no excuse for not reading it, but I think you are asking me my thoughts and all I can say is apparently, quite obviously, banks do not read the circulars. Why? I don't know, but I do think, I repeat, that after what has gone on in the last few weeks, banks will be very careful about setting up a structure and organization to make sure that all rules and laws and regulations are carefully read and carefully digested and put in place.

Chairman Roth. I obviously hope that is the case, Mr. Brown. Frankly, one of the things that concerns me, is that there have been a number of investigations in this area in the past which received some notoriety, though not quite as much as currently, but it appears these investigations were not very meaningful lessons either to the private sector or, for that matter, to the Government regulators.

Mr. Brown. I think previously, Senator, the banks looked at it as somebody else's problems. What has happened here is that the banks have gone back and a lot have found that they haven't complied, so I think this is bringing the problem to the attention of a large number of banks.

Chairman Roth. I hope the message, and I say this in a constructive way because my main concern is to ensure the integrity and confidence of our financial institutions, but I hope the message gets back to the banking financial institutions loud and clear that this is a very important matter that is going to be followed.

We are not just going to ignore it and follow it today and ignore it tomorrow. We want some evidence. As I already indicated, I am asking the General Accounting Office to make a study as to compliance, and we are going to be pursuing that in the future, so I would hope that message is fully understood.

Mr. Rinzel, do you have anything?

Mr. Rinzel. Mr. Chairman, with your permission, I would like to introduce as exhibit 21, remarks by Mr. Brown, Mr. Tangney, and Mr. Wiley, on February 11, 1985, part of the portion which you made reference to during your questioning.

Chairman Roth. Without objection, so included.

[The document was marked "Exhibit No. 21," for reference, and may be found in the appendix on p. 206.]

Mr. Rinzel. Thank you, Mr. Chairman.

Chairman ROTH. Mr. Dormer, please come forward. Mr. Dormer, would you please remain standing and raise your right hand?

Do you swear the testimony you will give before the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. DORMER. I do.

Chairman ROTH. Do you have a prepared statement?

Mr. DORMER. No, I do not.

Chairman ROTH. I am going to ask our chief counsel, Mr. Rinzel, to propound a number of questions.

TESTIMONY OF DAN DORMER, VICE PRESIDENT, DEPOSIT OPERATIONS, THE FIRST NATIONAL BANK OF BOSTON

Mr RINZEL. Can you give us your title?

Mr. DORMER. Vice president, manager of the coin and currency department.

Mr. RINZEL. I wonder if you could pull the microphone closer. When did you assume that particular position, sir?

Mr. DORMER. In March 1980.

Mr. RINZEL. In the summer of 1980, you received and reviewed a banking bulletin that described the new regulations under title 31, the reporting provisions of title 31, is that correct?

Mr. DORMER. Yes, sir.

Mr. RINZEL. This bulletin specifically states that reports must be filed for large currency transactions with foreign banks. What did you do when you received this bulletin?

Mr. DORMER. Reviewed it with the personnel who handled foreign transactions and ascertained that we had since the beginning been completing this form.

Mr. RINZEL. You reviewed it with the personnel who had been handling foreign transactions. Who is that, sir?

Mr. DORMER. Mr. Henry Mooney.

Mr. RINZEL. In what form had you been completing it?

Mr. DORMER. A Customs form, sir.

Mr. RINZEL. A Customs form. You mean at the time of the shipment of currency; is that what you are talking about?

Mr. DORMER. It is a form that is prepared and forwarded with the shipment, sir.

Mr. RINZEL. Not the currency transaction report required by the regulation?

Mr. DORMER. No, sir.

Mr. RINZEL. Did you, as a result of having reviewed that bulletin, did you cause to be filed currency transaction reports for a transaction with foreign bank customers?

Mr. DORMER. Would you repeat that?

Mr. RINZEL. Did you, after reviewing that regulation, sir, did you implement the regulation and cause currency transaction reports to be filed on foreign transactions, cash transactions?

[At this point in the hearing, Senator Roth withdrew from the hearing room.]

[The letter of authority follows:]

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U.S. Senate,
Committee on Governmental Affairs,
Senate Permanent Subcommittee on Investigations,
Washington, D.C.

Pursuant to Rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the chairman, or any member of the subcommittee as designated by the chairman, to conduct open and/or executive session hearings without a quorum of two members for the administration of oaths and taking testimony in connection with a hearing on Domestic Money Laundering: The First National Bank of Boston. These hearings are to be held on March 12, 1985.

William V. Roth, Jr.,
Chairman.

Sam Nunn,
Ranking Minority Member.

Mr. Dormer. No, sir; I believed the Customs form was the form that was being requested and felt we had been doing it before it was required.

Mr. Rinzel. So you misunderstood the bulletin and the regulations?

Mr. Dormer. That is correct, sir.

Mr. Rinzel. Did you in July 1982 have a telephone conversation with Robert Stankey of the Treasury Department?

Mr. Dormer. During the summer 1982. I am not certain of the month.

[At the point in the hearing, Senator Roth entered the hearing room.]

Mr. Rinzel. And then didn't Mr. Stankey during that conversation tell you that you were required to file CTRs on currency transactions with foreign banks?

Mr. Dormer. I do not recall that, sir.

Mr. Rinzel. Well, your copy of the June 1982 Treasury letter sent to you by Mr. Stankey has a handwritten notation which you have reviewed previously with us, as I recall, which says, and that is exhibit 10 of the exhibit list, "Form 4789, IRS for International Shipment and 4790." Did you make those notes during the course of your conversation with Mr. Stankey?

Mr. Dormer. Yes, I did, sir.

Mr. Rinzel. And doesn't that indicate to you those are the form numbers for international shipments, the CTR numbers and CMIR numbers; isn't that correct?

Mr. Dormer. Those are the forms, sir. It was my understanding at that point that that was referring to individuals as opposed to banks.

Mr. Rinzel. So your recollection is that he only told you that you had to file those forms for individuals?

Mr. Dormer. At the time that was my interpretation, sir.

Mr. Rinzel. Why did it take you a full year after this telephone conversation with Mr. Stankey in which you discussed with him the exempt list and the checkmarks he had placed on the exempt list, why did it take a full year before you responded to that inquiry from the Treasury Department?

Mr. Dormer. I cannot give all of the reasons. I just do not know, sir. At the time he said when I had a chance to get back with the information, and it sat in the bottom of an in-basket and was not reflected on for some 10 months.

Mr. **Rinzel.** Mr. Dormer, you told our staff investigators that to your recollection, you were not contacted personally by any bank examiner from the Comptroller's Office during the period of 1981 and 1982; is that your recollection today?

Mr. **Dormer.** To the best of my recall, that is correct, sir.

Mr. **Rinzel.** We have received information that a Comptroller's bank examiner did have a discussion with you in which you indicated that you were confused about the reporting requirements, but that you were discussing those requirements with the Treasury Department. Do you recall such a conversation with the bank examiner?

Mr. **Dormer.** I don't recall any conversation, sir.

Mr. **Rinzel.** Of any kind?

Mr. **Dormer.** With the bank examiner, that is correct, at that time period.

Mr. **Rinzel.** Mr. Dormer, for the record, can you tell us, to the best of your recollection, when you first became aware that cash transaction reports were required to be filed on international shipments of currency in excess of $10,000?

Mr. **Dormer.** During the summer of 1984, I would say probably mid-July, although I may be off by a week or two.

Mr. **Rinzel.** Is that when you became aware of the Federal grand jury investigation?

Mr. **Dormer.** No, sir; the Federal grand jury began in May 1983, to my knowledge.

Mr. **Rinzel.** And you didn't become aware until 1984 of the regulation requirement?

Mr. **Dormer.** They were dealing strictly with the domestic problems.

Mr. **Rinzel.** I have no further questions of this witness, Mr. Chairman.

Chairman **Roth.** Mr. Dormer, I guess I would best characterize the compliance with regulations in your bank as casual. Is it typical when you get a new bulletin or new regulation to ask your secretary as to whether you are in compliance therewith, or do you ever refer such matters, for example, to counsel?

Mr. **Dormer.** What do I do now, or what did I do at that point, sir?

Chairman **Roth.** At that point.

Mr. **Dormer.** At that point, I questioned my secretary for some specific procedures——

Chairman **Roth** [interposing]. I understand your answer to that particular time, but generally speaking, when you were the head of currency, when such matters came up, did you consult with the legal counsel ever?

Mr. **Dormer.** Have I consulted? Yes, I have; on that specific——

Chairman **Roth** [interposing]. On a regular basis? Who would you normally look for to interpret the Federal regulations?

Mr. **Dormer.** To interpret it I would refer to counsel, sir.

Chairman **Roth.** Why didn't you do it that time?

Mr. **Dormer.** I do not know, sir.

Chairman **Roth.** What kind of instructions had you gotten from management with respect to regulations?

Within the bank, were there any meetings on compliance with regulations? Were there any specific internal directions or instructions as to how to proceed with respect to Federal regulations?

Mr. DORMER. Normally, a Federal regulation would be the basis for the generation of an operating procedure or a general management bulletin, and at such time, that would be focused on by the operating head. I'm not sure which comes first, the operating head requesting that the operating procedure be made or the operating procedure being generated and the operating head then focusing on it.

At the time of the 1980 issuance, there was not an operating procedure generated. The prior one regarding large currency transactions was in 1977 which has no bearing, I believe, on what we are talking about today.

Chairman ROTH. Senator Rudman.

Senator RUDMAN. Thank you, Mr. Chairman. Mr. Dormer, I am interested in procedure. Let me ask you this question two ways, first before this happened and now after it happened.

If before this happened a regulation came from the Comptroller or from the FDIC, whatever, and they said to all banks, any U.S. currency in the denomination of $1,000 bills that had a serial number beginning with G should be reported on form X, would it be your responsibility at that time to get that bulletin and put the system into place to make that reporting happen?

Mr. DORMER. If the bulletin came into my possession, my understanding now is absolutely yes, it would have been.

Senator RUDMAN. At that time or now?

Mr. DORMER. At that time.

Senator RUDMAN. How is it going to happen, assuming such a hypothetical bulletin comes out that the Government has reason to have these reported, how would it happen now, do you know?

Mr. DORMER. Yes, sir; there would be so many people all clamoring to have the new procedure made that we would probably have five issuances in the first morning.

Senator RUDMAN. You were in the room, I believe, when I discussed with Mr. Brown the various initials on this memo back in 1980?

Mr. DORMER. Yes, sir.

Senator RUDMAN. Did you recognize all those initials?

Mr. DORMER. Yes, sir.

Senator RUDMAN. Which of those gentlemen were in your chain of command, either you were directly responsible to or your superior was directly responsible to?

Mr. DORMER. Mr. Tangney, "EMT."

Senator RUDMAN. He is executive vice president, Automated Corporate Services covering your department?

Mr. DORMER. Yes, sir.

Senator RUDMAN. So Mr. Tangney, who was on the list here, received this—well, he should have received it?

Mr. DORMER. He did receive it.

Senator RUDMAN. And he sent it down to you?

Mr. DORMER. That is correct, sir, and followed up, I might add, some week or 10 days later asking had I read it and had I, in fact, acted on it, and at that time, I stated to him, yes, I had read it and we were filing the form that at that time I understood to be the form that was being requested.

Senator RUDMAN. So I think we have a clear understanding now what happened at your level, what happened at your level was that there was a question of mistaken reference. When you said to your superior, yes, I have the notice; I am complying; we are filing the form, he said, fine, great, pleased to hear it, he was thinking about the form that is the subject of this hearing and the form you were talking about is the form you had been filing with U.S. Customs?

Mr. DORMER. Unfortunately, yes, sir.

Senator RUDMAN. Did you ever get any additional bulletins from the Office of Legal Counsel within the bank, General Counsel's office, Administrative Services maybe which would have been, let's say, an explanation of this, further explanation of this form at this time?

Mr. DORMER. I'm not aware of when it came into my possession, but there is additional documentation I now have.

Senator RUDMAN. Along with this form I am holding up, which has a summary, additional pages from the Federal Register and Department of Treasury, which also came attached to the same form which goes into great detail, do you recall reading those at the time?

Mr. DORMER. I do not recall having read them, sir.

Senator RUDMAN. Do you think perhaps if you had read them you might have thought it was a different form they were talking about?

Mr. DORMER. Absolutely.

Senator RUDMAN. I think so, too. Thank you, Mr. Chairman.

Chairman ROTH. Senator D'Amato.

Senator D'AMATO. Mr. Chairman, one question. Mr. Dormer, are you in charge of just the international relations in terms of those deposits, or are you also in charge of domestic operations? I see the vice president, deposit operations.

Mr. DORMER. Maybe it might be the opportunity at this point to just explain a little bit of how our bank is structured. Deposit operations not only encompass coin and currency, they encompass other departments as well, and handle deposits coming in from an operational point of view.

The responsibility of the coin and currency department is, one, to follow up on the day-to-day handling of the operations that are required for the personnel that are in the field marketing service, and as such, I would handle the daily receipts and deliveries and instructions from correspondent banks and customers.

Senator D'AMATO. What about branches?

Mr. DORMER. Yes, sir.

Senator D'AMATO. You heard Chairman Brown talk about attempting to identify illegal sources of activity and money; that he thinks this is a role that banks, financial institutions should be part of, active in a role of identifying criminal proceeds; do you concur with that?

Mr. DORMER. Yes, sir.

Senator D'AMATO. Have you undertaken any specific activity as it relates to your domestic transactions at your branches to do something in connection with that? In other words, to make that a reality rather than just a general statement. Are you aware of any policies or initiatives that your bank has undertaken to deal with that in terms of identifying actively those proceeds that come from a criminal enterprise or are suspected of coming from criminal enterprises?

Mr. **Dormer**. There have been new operating procedures recently implemented or, I guess, they are in the process of being implemented at this point—I am not certain as to the day—that are far more encompassing.

Senator **D'Amato**. Let me give you an example. In a hearing that we held in January of this past year, a professional money launderer testified that one of the favorite techniques of organized crime and others was to have their operatives come in and give sums of cash less than $10,000—$9,000—that, depending upon what institution or what area of the country their activity was carried on in, that that was aided and abetted substantially as a result of the policies of the individual banks.

Some banks would request proof, identity, driver's license and even pictures. In other words, there was a concern on their part before they would take that cash and issue a check. Others had almost absolutely no requirements for identification.

My question is, What do you do in terms of the person who comes in in the manner in which I have described, a person who you do not know on a regular basis and who makes a deposit of $9,000? Do you ask for a picture, positive identification, do you embark upon a program like that?

Mr. **Dormer**. Senator, the department I am responsible for deals with no individuals, in any case, on a face-to-face basis. That is in another area of the bank where they are dealing with the consumers face-to-face.

Senator **D'Amato**. I just suggest, Mr. Chairman, that would certainly be an undertaking that would demonstrate a kind of good faith and certainly the First Bank of Boston might be a leader in that endeavor. That kind of thing makes the money laundering at the street level, and there is lots of it going on throughout this country, much more difficult. A little thing like that could go a long way in beginning to make that a much more difficult activity for organized crime to undertake. Thank you, Mr. Chairman.

Chairman **Roth**. Thank you, Senator. That completes the questions for you, Mr. Dormer.

The subcommittee will be in recess until one o'clock, at which time we will promptly resume the hearing. My intent is to complete it this afternoon.

[Senators present at the time of recess: Senators Roth and Rudman.]

[Whereupon, at 12:07 p.m., the subcommittee recessed to reconvene at 1 p.m. the same day.]

AFTER RECESS

[Senators present at the convening of the hearing: Senators Roth and Rudman.]

Chairman **Roth**. The subcommittee will please be in order.

At this time, I would like to call forward Mr. Hamill, president of Shawmut Corp. Would you please remain standing, Mr. Hamill? Raise your right hand.

Do you swear the testimony you will give before the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. **Hamill.** I do.

Chairman **Roth.** Please be seated. As I indicated to the prior witnesses, you may summarize your statement, if you choose, but in any event, the full statement will be included as if read.[5]

TESTIMONY OF JOHN P. HAMILL, PRESIDENT, SHAWMUT CORP. AND EXECUTIVE VICE PRESIDENT, SHAWMUT BANK OF BOSTON

Mr. **Hamill.** Thank you, Mr. Chairman. I would like to summarize.

Mr. Chairman, I am president of the Shawmut Corp. and executive vice president of the Shawmut Bank of Boston. The bank has 29 branches, all of which are located in the Boston area, and we provide financial services principally to individuals and local and regional businesses.

I want to describe if I might, Mr. Chairman, how we discovered our reporting deficiencies and how these deficiencies came about. After February 7, 1985, when the Bank of Boston situation came to light, our people came to me and said that we might have a problem. We immediately conducted an intensive internal review, the principal focus of which was the CTR exempt list maintained by the bank. We concluded that the bank and——

Chairman **Roth** [interposing]. Excuse me. When was this again?

Mr. **Hamill.** After February 7, 1985, when the Bank of Boston situation came to light, our people came to me. We began an investigation. We concluded the bank had inadvertently continued to treat certain customers as exempt which, after the 1980 changes in the regulations, we were not authorized to exempt without specific Treasury authorization. Those customers included 7 foreign banks with longstanding relationships with Shawmut as well as 20 well-known local institutions and commercial firms in the Boston area. The list of those customers include churches, cultural organizations, educational institutions, and scheduled airlines.

At that point, we asked for meetings with the Treasury Department and the Comptroller of the Currency. Those meetings took place on February 19, 1985, pursuant to telephone conversations that we had with both the Treasury and the Comptroller's offices late February 14 and early in the morning on February 15.

On February 19, in those meetings, we presented the conclusions of our internal review, and we submitted CTR's for foreign transactions going back to 1980. In addition we submitted exemption applications to the Treasury Department for 20 customers of the bank—the scheduled airlines, the churches, and the educational institutions—under a procedure whereby we believe those customers are eligible for an exemption.

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[5] See p. 113 for the prepared statement of John P. Hamill.

Our review confirmed that we had made an error. We did not properly comply with the Bank Secrecy Act. As I will describe, this is not a case where no one at the bank saw the regulations. In fact, the branch division of the bank did receive the regulations and applied them diligently, if not perfectly, from the time that they received them in 1980. In fact, the branch division filed over 800 CTR's during the period of 1980 through 1984.

The bank's currency department, however, did not see the regulations. Let me explain a little bit, if I might, the distinctions between the branch division and the currency department. The branch division is the main point of contact with the consumers and the commercial customers of the bank. The currency department, however, is separate from the branch division, and it is in the currency department where we deal with domestic banks, foreign banks, major corporate customers, and institutions which normally have cash transactions. These are among the same 20 companies and institutions that I have mentioned already.

Some of this goes to the question of why did the currency department not get the regulations. If I might go back to 1972 when the Bank Secrecy Act became effective, transactions with foreign banks, as well as domestic banks, were exempt as were transactions with customers who in the ordinary course of their business were customarily depositors of large amounts of cash.

These exemptions basically meant that all of the customers of the currency department were not affected by the Bank Secrecy Act for the 8-year period between 1972 and 1980. The 1980 amendments removed the general exemption for foreign bank transactions and limited the domestic customer exemption. When the 1980 changes became effective and were received by the bank, they were routed to that part of the bank that had dealt with the Bank Secrecy Act for the prior 8 years; that is the branch division of the bank.

Chairman ROTH. Could I ask you a question there?

Mr. HAMILL. Sure.

Chairman ROTH. Who did that routing? Do you have a legal department?

Mr. HAMILL. We do have a legal department. There happened to be a vacancy in the general counsel's office at that time. The routing in this particular instance did come into the bank. It came in with a notice from the Comptroller's Office and was routed to the branch division. The head of the branch division gave it to the administrative section which had been dealing with the Bank Secrecy Act for the prior 8 years.

Chairman ROTH. Go ahead.

Mr. HAMILL. The branch division then complied with the amended regulations through the regular updating of the exemption list and periodic reminders of the importance of full CTR compliance to the various branches.

The currency department never received a copy of the change in regulations, and it continued to treat the customers it had been dealing with as it had for the prior 8 years.

In 1983, as a result of changes in the operation of branches, the currency department began to deal with certain of the deposits of certain customers of the branches so that at that point in time, certain customers were sending deposits to the branches which would forward those deposits directly to the currency department.

At that time, the currency department became aware of the fact there was a requirement to put together a list of its customers, basically the customers it dealt with, and to provide that list to the branch division so that it could be kept in one place for regulatory inspection. The two lists came together for the first time in 1983. As it turns out, incorrectly, the currency department continued to believe that its requirement was merely to keep a list of its customers because those customers were the ones that it normally did business with in the course of its business and, therefore, were exempt from reporting.

When we commenced our internal review, we found that the exempt list would, in fact, satisfy the requirements of the CTR regulations with the exception of those 20 customers and the 7 foreign banks. The domestic customers, as I indicated to you, were educational and religious and health organizations and commercial firms. All cash transactions with these 20 customers on the exempt list had been normal for the conduct of the customer's business activities. As allowed by Treasury regulation, we have applied for specific permission to exempt those customers.

The foreign banks that Shawmut treated as exempt are also longstanding customers of the bank. The vast majority of the transactions with these customers were transactions in which they sent money to us, cash deposits. In turn, Shawmut transferred funds by wire to accounts maintained by the foreign banks at other U.S. banks. That is, the cash would come in to us and in turn be wired out to other U.S. banks.

The foreign banks in the group included one in Spain, two in Portugal, one in Ireland, and four in Canada. All are long-term customers, some for as many as 50 years; none less than 20 years. Deposits of currency from foreign banks from 1980 to 1985 totalled $157 million and withdrawals totalled $33.9 million.

Since the internal review of our compliance procedures commenced last month, we have taken a number of specific steps to improve the level of our compliance with the CTR requirements. Attached to my testimony is a copy of the memorandum from our legal department to branch managers and to the currency department setting forth our current detailed procedures for compliance with these requirements.

The memorandum includes various forms that are necessary in order to enhance our ability to be sure that we are properly complying with the law. We have stepped up our training programs to continue to be sure we are, in fact, managing the process of complying with the CTR requirements.

Mr. Chairman, we have not done as well as we should have. We should not have missed this particular regulation, but we think the error was localized within the currency department. As we look back as to why it happened, we think we understand why it happened. It is unfortunate, and we regret that we did not find the error, but we have always sought to be fully cooperative with the Office of the Comptroller and the Treasury Department with regard to the enforcement of the CTR requirements, and also with regard to this particular matter. We voluntarily brought it to the attention of both the Comptroller and the Treasury Department within days after having found the error ourselves. We have never sought to withhold or delay the giving of any information with regard to the requirements as we understood them, and we believe our new compliance program will continue to improve our program as we go forward over the course of the coming years. We stand ready to cooperate with the subcommittee, with the Treasury and with the Comptroller, and I will be pleased to answer any questions you might have at this time.

Chairman ROTH. Mr. Hamill. Do I correctly understand your corrective action was initiated by the banking management, that this is not the result of any inquiry or investigation on the part of the Government?

Mr. HAMILL. That's correct, Senator.

Chairman ROTH. If that is the case, I want to congratulate you because I think it is important that institutions have the courage where errors are made to correct them. I would hope any other institution that finds itself in the same set of circumstances would have the courage to correct it.

Let me ask you this: Were there any bank examiners from the Comptroller's Office in your bank from 1980 through 1984?

Mr. HAMILL. Yes, sir.

Chairman ROTH. What did they find with respect to title 31? Did they have any exception?

Mr. HAMILL. No, they did not, sir.

Chairman ROTH. Did they investigate the currency department, as far as you know?

Mr. HAMILL. Senator, the examination covers many areas of the bank.

Chairman ROTH. I understand that.

Mr. HAMILL. Whether it specifically covered the currency department, I'm not sure, but I would think at some point in time it may have.

Chairman ROTH. Were these examiners from the Comptroller's Office, do you know?

Mr. HAMILL. Yes, sir; we are a national bank and, therefore, examined by the Comptroller's Office.

Chairman ROTH. Senator Rudman?

Senator RUDMAN. Thank you very much, Mr. Chairman. Mr. Hamill, so that the record can be straight, when you came to the Treasury Department several weeks ago to tell them of your discovery, it is my understanding that you did not ask for immunity from prosecution, but simply told them?

Mr. HAMILL. That's correct, Senator.

Senator RUDMAN. I want to refer to one part of your statement that says:

> The foreign banks that Shawmut treats as exempt are also longstanding customers. The vast majority of transactions with these customers consist of deposits. In turn, Shawmut transferred funds by wire to accounts maintained by the foreign banks at other U.S. banks.

I assume you had a corresponding relationship with some of those banks, or did this just as a service to these other banks.

Did any of these wire transfers in behalf of the foreign banks that you deal with go to other than deposits in the name of those foreign banks in those various U.S. banks? In other words, were some of those wire transfers wire transfers to an account of an individual or corporation?

Mr. HAMILL. Senator, the vast majority went to accounts of the foreign banks in other U.S. banks. There were some. We don't have the whole detailed list. There were some that went to corporations, and we're looking at some of those instances.

Senator RUDMAN. And were some of them also wire transfers on behalf of, say, a bank in whatever country to the Shawmut which were then wire transferred to another domestic U.S. bank and deposited to an account of an individual as opposed to a corporation or a bank?

Mr. HAMILL. I am not aware of an individual, but again we haven't completed our review of that information.

Senator RUDMAN. I would appreciate it, Mr. Hamill, if when you do you communicate the results of that to this subcommittee. Obviously, you understand the reason for my question. It is obviously inadvertent. I join the chairman in commending you for your forthrightness and your candor. I think that speaks well for your institution.

However, we are looking at an issue here where not only are we concerned about illicit money that gets unwittingly transferred by banks out of the country, of course, we are somewhat concerned about people who manage to get large sums of money overseas and then have to have a way to bring it back into the United States.

Obviously, they can't bring it back in trunks, because hopefully the Customs might find it. If you wire transfer from a Swiss bank or South American bank to the Shawmut or other domestic bank, and then transfer it to a bank in New Hampshire where the drug dealer resides, then obviously he has a lot of money in his checking account to use for whatever he wants. You understand that problem, I am sure.

Mr. HAMILL. Sure.

Senator RUDMAN. On that same point, Mr. Hamill, in the money you transferred by wire to accounts maintained at these foreign banks, the figures indicated on one of our exhibits are a little different from the figures you cite in your testimony. I can understand the difference, because one of these items is a bit older than the other; it was $157.2 million in withdrawals and $33.9 million——

Mr. HAMILL. Just the opposite, Senator.

Senator RUDMAN. Withdrawals, $33.9 million.

Mr. HAMILL. Deposits were $157 million. That is cash coming into the bank.

Senator RUDMAN. That is what you kept for their account or transferred out?

Mr. HAMILL. That is correct, transferred by wire out and the $33 million was basically currency sent to certain banks primarily in Canada in the summer months and also to fund certain Canadian naval operations when the Canadian Navy may be calling at U.S. ports and needed U.S. currency for their navy.

Senator RUDMAN. To your knowledge, were there any of the wire transfers that went out of the Shawmut to banks in Canada or elsewhere where the money was wired other than to accounts of corporations or banks themselves? In other words, did any of those get wire transferred to the accounts of individuals?

Mr. **Hamill.** Again, there may have been a few, Senator, but we don't have all of the information on that.

Senator **Rudman.** Are you reviewing that, Mr. Hamill, now?

Mr. **Hamill.** Yes, we are, sir.

Senator **Rudman.** I would also appreciate it if you could let the committee have that information on a confidential basis because we are looking at a whole different problem here than just banks. We are looking at a far different problem, and our concern is the unwitting use of these banks, by some of these people.

As far as the systems failure at the Shawmut, and I don't want to dwell on this a great deal, we went through it with Mr. Brown, I think what you are saying is somehow the people who had to do this never got a copy of this regulation.

Mr. **Hamill.** That's correct.

Senator **Rudman.** Mr. Hamill, we thank you for being here. I have no other questions.

Chairman. **Roth.** Mr. Rinzel.

Mr. **Rinzel.** Mr. Hamill, could you tell us what specific years the Comptroller's bank examiners were in your bank, and how many examinations were done after 1980?

Mr. **Hamill.** The Comptroller's examination generally takes place every year, Mr. Rinzel. We are examined generally on a once-a-year basis.

Mr. Rinzel. So is it your knowledge that the Comptroller was in your bank four different times since 1980, since those regulations became effective?

Mr. **Hamill.** That's fair to say.

Mr. **Rinzel.** And at no time were any bank officials advised of the noncompliance on the foreign transactions and the exempt list?

Mr. **Hamill.** That's correct.

Mr. **Rinzel.** And you have, I take it, had an opportunity to review the examination reports prior to your testimony on that point?

Mr. **Hamill.** Yes, I have.

Mr. **Rinzel.** Have you now reported all of the transactions with foreign financial institutions that you engaged in after 1980?

Mr. **Hamill.** All of the transactions that have taken place as a result of the U.S. dollars that have come in, we have gone back and looked at all of those transactions, and we think we have identified all of those particular transactions that have been involved. We have had some foreign transactions in foreign currency, many of which were the result of dealings with the Federal Reserve Bank of Boston, where we send foreign currency to Canadian banks, and we are reviewing those transactions also. That basically comes from the Canadian dollars collected in banks in the Massachusetts region and forwarding through us to the Canadian bank, and we are looking at those.

Mr. **Rinzel.** Are you familiar with the Deak-Perera firm?

Mr. **Hamill.** Yes, I am.

Mr. **Rinzel.** Have you had any dealings with them?

Mr. **Hamill.** We have had some dealings with the Deak-Perera firm where we may buy or sell foreign currency, where we have customers who are going to be traveling abroad and are in need of foreign currency in order to be able to go abroad.

Mr. RINZEL. Were those transactions reported or unreported?

Mr. HAMILL. When we have bought foreign currency from them, we have generally not reported a Deak-Perera transaction. I think we have done about $1 million over the 5-year period, and we are looking at that particular situation in order to determine the reporting requirements.

Mr. RINZEL. Mr. Chairman, I wonder if we could request that we be given the results of that examination once it is completed.

Chairman ROTH. Yes.

Mr. HAMILL. Sure.

[The information follows:]

SHAWMUT BANK,
Boston, MA, March 18, 1985.

Mr. CHARLES MORLEY,
Chief Investigator, Senate Permanent Subcommittee on Investigations of the U.S. Senate, Washington, DC.

DEAR MR. MORLEY: This is to follow-up on our discussion on Wednesday, March 13, 1985, with regard to the discrepancy between your tabulation of the Form 4789 totals and our statistics. From your Exhibit 20, which was entered into the record at the hearing, it appears that the difference in the figures is a result of the inclusion in our Form 4789 filings of deposits from foreign banks which we concluded to be cash deposits because of past activity of that account. For some of these deposits, we were unable to locate a copy of the actual deposit item and, therefore, could not verify its cash status. Nevertheless, Form 4789's were filed for these items out of an abundance of caution. The difference between your deposit figures in Exhibit 20 and our totals, approximately $13 million, coincides with those deposits for which we could not confirm that cash was presented.

Also, as we discussed on Wednesday, the withdrawal total in Exhibit 20 apparently does not reflect the $5 million cash shipment to Switzerland which occurred in 1983. You should find in the material that we provided to the Subcommittee a copy of the Form 4789 representing that transaction.

We are in the process of preparing additional material for the Subcommittee relating to wire transfers and Deak Perera transactions. As soon as that is available, I will forward it to you.

Very truly yours,

C. KEEFE HURLEY, Jr.,
Senior Vice President and General Counsel.

SHAWMUT BANK,
Boston, MA, March 28, 1985.

CHARLES MORLEY,
Chief Investigator, Permanent Subcommittee on Investigations of the U.S. Senate, Washington, DC.

DEAR MR. MORLEY: Enclosed are the following:

A. Wire transfer transaction analyses for Canadian and European banks; and

B. Form 4789s filed with the Treasury Department reflecting foreign currency transactions with Deak Perera International, Inc.

Very truly yours,

C. KEEFE HURLEY, Jr.

SHAWMUT BANK OF BOSTON CANADIAN WIRE TRANSFERS TRANSACTION ANALYSIS

Bank	Total dollars 4Q–84	Total dollars tested 4Q–84	Amount sent to own A/C at other bank	Total sent to others
Royal Bank of Canada	$169,009,558	$168,777,638	$165,606,857	$3,170,781
Bank of Nova Scotia	53,057,367	52,997,541	50,914,400	2,083,141
National Bank of Canada	2,077,342	2,054,754	640,000	1,414,754

SHAWMUT BANK OF BOSTON CANADIAN WIRE TRANSFERS TRANSACTION ANALYSIS—Continued

Bank	Total dollars 4Q–84	Total dollars tested 4Q–84	Amount sent to own A/C at other bank	Total sent to others
Canadian Imperial Bank of Commerce	6,392,750	6,203,881	2,627,000	3,576,881

SHAWMUT BANK OF BOSTON EUROPEAN WIRE TRANSFERS TRANSACTION ANALYSIS

Bank	Total dollars 1984	Total dollars tested 1984	Amount sent to own A/C at other bank	Total sent to others
Banco Central	$24,060,091	$24,060,091	$24,020,091	$40,000
Banco Nacional Ultramarino	1,590,532	1,575,000	1,575,000	15,532
Bank of Ireland	322,854	230,888	145,000	85,888
Banco Totta Acores	400			

Mr. RINZEL. Do you know when those transactions took place and what amounts?

Mr. HAMILL. I don't have the details on them. They would have been, over the 5-year period, about a million dollars, and they would have been relatively small transactions, generally satisfying the needs of our customers.

Mr. RINZEL. I don't have any further questions, Mr. Chairman.

Chairman ROTH. One final question, Mr. Hamill. Do you have any explanation for the general failure of the banking industry, assuming what we read in the paper is true? Was title 31 not a regulation that was looked upon as particular serious generally? Have there been any discussions within the ABA that you are aware of?

Mr. HAMILL. Senator, I think the banking industry, certainly our bank, takes title 31 seriously. We recognize the problems that you are trying to address, and that this is a way of addressing those problems. The fact that we had, in fact, a system that we think did a generally good job of trying to comply, we think shows a good-faith effort on our part to comply.

Obviously, there are problems in trying to report all transactions well and that is something that seems to be coming out as a result of the press reports with respect to other bank situations. I'm not sure whether or not there will be a simple answer to that question, and I think some of the testimony this morning that was offered goes to some of the issues that need to be resolved as you look at these issues over the course of the coming months.

Chairman ROTH. Thank you, Mr. Hamill.

At this time, we would like to call Mr. C.T. Conover, Comptroller of the Currency. Mr. Conover, would you and your colleagues please raise your right hands?

Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. CONOVER. I do.

Mr. SELBY. I do.

Mr. LUKE. I do.

Chairman ROTH. Would you please introduce your two colleagues and their positions?

Mr. CONOVER. Yes, I will, Mr. Chairman. I am joined today by Joe Selby, on my right, who is the Senior Deputy Comptroller for Bank Supervision, and Jordan Luke, on my left, who is Deputy Chief Counsel (Policy).

With your permission, I would like to have my entire statement entered into the record. I have a briefer oral statement based on the written statement.

Chairman ROTH. Without objection. Please proceed.[6]

TESTIMONY OF C.T. CONOVER, COMPTROLLER OF THE CURRENCY, ACCOMPANIED BY H. JOE SELBY, SENIOR DEPUTY COMPTROLLER FOR BANK SUPERVISION, AND JORDAN LUKE, DEPUTY CHIEF COUNSEL (POLICY)

Mr. CONOVER. Mr. Chairman, members [illegible] the subcommittee, I am here today to discuss compliance with the reporting provisions of the Bank Secrecy Act. The recent conviction of the First National Bank of Boston for currency transaction reporting violations has raised concerns regarding the implementation of that act. The office of the Comptroller of the Currency (OCC) shares these concerns.

Today, I will review the events at the Bank of Boston and offer our conclusions regarding them. My full statement, along with an appendix, provides a more detailed chronology. Then, I will discuss what we are doing to improve our efforts to ensure that national banks comply with the Bank Secrecy Act.

In September 1982, this Office was notified by the Treasury Department that a review of currency flows at the Federal Reserve Bank of Boston had indicated that several Massachusetts banks, including the Bank of Boston, exhibited a large volume of currency activity. At this time, the OCC was in the process of conducting a regular examination at the Bank of Boston as of September 30, 1982. Treasury was aware of this and requested us to report back to them with our examination findings regarding Bank Secrecy Act compliance.

In response to this request, our examiners focused their investigation of the Bank of Boston's Bank Secrecy Act compliance specifically on Treasury's concern, and they were able to explain more than 95 percent of the currency flow that concerned Treasury based on the bank's failure to include domestic banks on its exemption list. They cited the Bank of Boston for this violation of the Bank Secrecy Act regulations, and a bank official promised corrective action.

During the examination, a bank official also expressed some confusion as to the reporting requirements for international currency transactions and confirmed that the bank was in contact with Treasury regarding this issue. We believe that, following the completion of this special investigation of the bank's currency activities, we forwarded the results to Treasury.

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[6] See p. 129 for the prepared statement of C.T. Conover.

In late April 1983, the Internal Revenue Service began an investigation of the bank. As is not unusual in these situations, Treasury notified us to suspend examination of the bank for Bank Secrecy Act compliance. On February 7, 1985, the Justice Department brought charges against the Bank of Boston for failing to report over $1 billion in cash transferred between the bank and various foreign banks.

We have drawn several conclusions from our initial review of these events. First, while we provided some support to the investigation and conviction of the Bank of Boston, we are not satisfied with our performance overall. We have learned that we could have been more effective in applying our procedures, in training our examination staff and in responding to information from the Treasury Department regarding potential compliance problems in certain banks.

We now recognize that we could have done a more vigorous compliance review during the 1982 examination. The enhanced examination procedures put in place by the banking agencies in November 1981 represented a substantial improvement in our ability to monitor Bank Secrecy Act compliance. However, it has recently become clear that the examiners that were involved in the Bank of Boston examination were not familiar with the 1981 procedures and the specific reporting requirements as revised in 1980. It is also clear that while this Office did respond to Treasury's notification of potential problems with the Bank of Boston, the attention and follow-up we devoted to the issue were less than sufficient.

These conclusions have led us to also reexamination our actions regarding the other eight banks included in Treasury's initial notification to our office. We are finding that in many of these banks, the examiners performing the Bank Secrecy Act compliance checks exhibited a similar lack of knowledge regarding the current procedures and did not give the priority to the Treasury Department information that we would have liked. We view this as an institutional, rather than an individual, failure.

This office is committed to ensuring a more effective discharge of our responsibilities under the Bank Secrecy Act in the future. Specifically, we are taking the following steps.

One, undertake a thorough review of OCC's actions regarding the nine Massachusetts banks. I have ordered a special study of our response to Treasury's September 1982 memorandum regarding Bank Secrecy Act compliance in Massachusetts. We intend to identify more definitively the shortcomings involved and those steps that we can take to remedy them.

Two, ensure effective compliance examinations in Massachusetts. We have undertaken a review of the compliance procedures performed in the Massachusetts banks targeted by the Treasury Department. If deficiencies are noted, the examiners will conduct onsite visits and ensure thorough reporting to the Treasury Department.

Three, improve internal communications. We are reviewing our efforts to effectively communicate and implement OCC policies and procedures in the Bank Secrecy Act area. Quality control systems are being implemented to ensure that the current examination procedures are being properly used in the examinations.

Four, intensify examiner training. Training efforts are being stepped up in the Bank Secrecy Act area. We are striving to ensure that all examiners are fully knowledgeable of the act and its implementing regulations as well as being fully proficient in carrying out the enhanced examination procedures in this area.

Five, continue efforts to improve interagency cooperation. Steps need to be taken to improve the coordination between this Office and the Treasury Department regarding the analyses of institutions exhibiting unusual currency movements. We stand ready to work with Treasury to make these improvements.

This agency has also been a major participant in a task force created by the Attorney General and endorsed by all of the bank regulatory agencies. Many of the proposals of the task force will substantially improve coordination efforts.

Six, strengthen management controls over implementation of Bank Secrecy Act responsibilities. The OCC is fully committed to its compliance responsibilities under the Bank Secrecy Act, and we are taking steps to ensure that this commitment is pervasive throughout the agency. In addition to the increased training, communication and cooperation described above, we are centralizing responsibility for all information flow and supervision in this area. Also, each district in the field is identifying Bank Secrecy Act compliance experts who will head up compliance examination efforts.

To assure the subcommittee that we are serious about taking these steps, we welcome the chairman's suggestion that there be a GAO investigation, and we are prepared to submit a written report to the subcommittee within 6 months detailing our accomplishment of these steps, and how we have gone about them. Moreover, if the subcommittee were to hold future hearings on the subject at that time, we invite the use of our specific agenda for corrections as a basis for detailed questioning.

While this Office can and will find ways of improving its efforts, it is important to recognize that law enforcement agencies and bank regulators can only provide a small part of the solution. The attitude and self-policing efforts of banks are critical to compliance with the Bank Secrecy Act. No amount of regulatory supervision works as well as a bank's internal control processes.

We also believe that the attention this situation is now receiving has and will continue to have a salutary effect on the industry's compliance efforts. With improved efforts and coordination at the Federal level and greater industry awareness, enhanced compliance with the Bank Secrecy Act should be achieved.

That concludes my remarks, Mr. Chairman. My colleagues and I will be happy to answer questions.

Chairman ROTH. Mr. Conover, one of my principal concerns has been that it seems to me neither the private sector nor the regulatory agencies themselves have given a high enough priority to title 31. I agree with you that the best protection to ensure a law is complied with is the internal policing of the bank, of the financial institution that is being regulated. But I guess I would have to say the same thing is true of the Comptroller's Office.

There was really not much priority given to title 31 in the past; would you agree with that?

Mr. **Conover**. There certainly wasn't in the case of the banks in Massachusetts that we are talking about; that is correct.

Chairman **Roth**. Would you say it is true elsewhere?

Mr. **Conover**. I'm not sure. I think that there have been different degrees of emphasis and cooperation regarding title 31. For example, we played an extensive role in south Florida in working with other Government agencies to deal with——

Chairman **Roth** [interposing]. That was a target of a special investigation, though, wasn't it?

Mr. **Conover**. Yes, it was.

Chairman **Roth**. The reason I raise that question is, as I mentioned this morning, an article in the Wall Street Journal stated that 45 banks may have broken cash reported rules. It is not very encouraging to me that neither these financial institutions nor the regulatory agencies have done a very first-rate job; would you disagree with that?

Mr. **Conover**. No, I agree. I read the same article that you did, but I have no further knowledge about those 45 banks than you do at this stage.

Chairman **Roth**. Let me ask you this question, and I don't want to beat a dead horse, but this is not the first time this matter has come up. It goes back to the 1970's where the Comptroller's Office—you weren't there then—was criticized for failure to adequately enforce the Bank Secrecy Act. In March 1977, hearings before the House Committee on Government Operations pointed out that the banking regulatory agency examiners had failed to detect any indication the Chemical Bank of New York was not complying with the reporting regulations prior to the criminal prosecution in that case.

In 1979, before the House Banking Committee, the Assistant Treasury Secretary for Enforcement conceded that there were a very low number of referrals from the banking regulatory agencies. He was reviewing the instructions to bank examiners to determine why this was so.

In June 1980, in hearings before the Senate Banking Committee, the enforcement efforts of the banking regulatory agencies were described as "abysmal" and "lackadaisical."

A GAO 1981 report found compliance monitoring practices of the banking regulatory agencies were inadequate, cursory and nonexistent.

I hear you saying what is going to be done now, but in view of the historical record, it concerns me as to whether or not there really will be followthrough on the part of your agency and others.

Mr. **Conover**. Senator, I understand your concern, especially given the examples that you just cited.

We have thought about this problem and how to correct it. I think we have identified the five or six steps that need to be undertaken. I realize that it is much more important to implement the steps than it is to simply say these are the right steps and we're going to take them. That is why I said in my oral statement that I'm committed to providing a written report to the subcommittee within 6 months outlining precisely what we have done to carry out each of the steps that we've outlined. I am hoping that that will assure you that we are serious about improving, as well as provide you with a feedback mechanism that you can use to question us about it in the future.

Chairman Roth. The other area that I want to raise a question about, and then I will defer to Senator Rudman, is that of training. There is evidence that in several instances, bank examiners themselves were not familiar with the requirements of the Bank Secrecy legislation and regulations.

You are, as I understand it, going to introduce a new training course; is that correct?

Mr. Conover. What we plan to do, and this is contained on page 13 of my statement, is require all newly hired examiners to demonstrate proficiency in this area before they are eligible for promotion or before they are assigned to examine for Bank Secrecy Act compliance. They will receive both formal classroom and on-the-job instruction. In the case of existing examiners, each district office holds a number of training sessions during the year, and Bank Secrecy Act training will be woven into those training programs.

Chairman Roth. I can't emphasize how important I think it is that our examiners fully understand the implications of the law. If you go through the bank examining procedures for title 31, it appears to be a pro forma examination; a mere checkoff without investigating what is really happening in the banks. I would hope that there be some kind of a followthrough to ensure that all examiners are well acquainted.

Is part of the problem that they have so many things to examine that it is impossible for them to understand?

Mr. Conover. Certainly, it is true that examiners have lots of things to do, but that is not a valid excuse.

We have, as a result of work done by the banking agencies in the Federal Financial Institutions Examination Council, developed what we believe are very good procedures for examination in the Bank Secrecy Act area. What needs to be done is to make sure that examiners are fully familiar with the law itself and are cognizant of the procedures and how to carry them out. Then I think we'll have the problem licked.

Chairman Roth. Senator Rudman.

Senator Rudman. Thank you, Mr. Chairman. Mr. Conover, I take a little different attitude about your agency than I do about the Bank of Boston or Shawmut. This subcommittee, or this Congress, is not responsible for the orderly management of the Bank of Boston. That is a matter of their directors. We are responsible for how this Government runs, and I have got to tell you, looking at the record and looking at our investigation reports, the Office of the Comptroller doesn't work too well.

I want to just call you on one of your statements here. We get a lot of statements before this subcommittee, some accurate and some have a little fluff in them, and I think yours has a lot of fluff, Mr. Conover. I will tell you why. I am going to refer to page 10. You say, "We have drawn several conclusions from our review of these events. First, while we have provided some support to the investigation and conviction of FNBB, we are not satisfied with our performance overall."

Were you in this room this morning when the U.S. Attorney Weld testified?

Mr. CONOVER. Yes, I was.

Senator RUDMAN. Did you hear his answers to the questions propounded by both the chairman and myself as to what kind of advice he got from your examiners in Boston?

Mr. CONOVER. I did, and, as a matter of fact, I've just heard about his dissatisfaction recently. We felt we provided adequate support to that effort and were surprised to learn, as these hearings were being prepared for, that he was unhappy about it. I have no knowledge that he ever complained about the degree of support he was getting during the course of his work.

Senator RUDMAN. Wait a minute, Mr. Conover. You talked to your Boston chief, your regional chief up there whose name, I believe, is Gridley, have you not, since this has all occurred?

Mr. CONOVER. Gridley is no longer with the Boston office.

Senator RUDMAN. Well, whoever was there at the time.

Mr. CONOVER. Yes.

Senator RUDMAN. Are you telling me they did not indicate to you that they informed the U.S. Attorney in Boston that in their view the bank was complying with the title 31?

Mr. CONOVER. My understanding is that they informed them that the bank was complying with title 31. That was based on the 1982 examination report.

Senator RUDMAN. Do you have your entire statement, including the supplements with you?

Mr. CONOVER. I'm sorry, the 1982 examination report is the one that cites a violation as far as the putting of domestic banks on the exempt list.

Senator RUDMAN. Mr. Conover, did you read your entire statement, including all the attachments before you came here today?

Mr. CONOVER. I certainly did.

Senator RUDMAN. If you would turn to paragraph 26 of your supplement, would you read it aloud for me, please? Paragraph 36.

Mr. CONOVER. Yes. It says, "During the OCC's recent review of its handling of the Bank of Boston matter, the staff has had several discussions with the assistant U.S. Attorney in charge of the criminal investigation. He informed us that he had been dissatisfied with the level of cooperation he had received from the two examiners. Pending further inquiry into the facts and circumstances surrounding the assistant U.S. Attorney's concerns, we did not bring his concerns to the attention of the committee staffs."

Senator RUDMAN. Doesn't that directly contradict your previous answer to me?

Mr. CONOVER. I don't believe so. Remember that it says that during the recent review of the handling of this matter, we had these discussions and he informed us that he was dissatisfied. That was the first time, as I understand it, Senator, that we learned that he was at all dissatisfied with the support that we had been providing him.

Senator RUDMAN. My point to you, Mr. Conover, that is prior to your testifying here today.

Mr. CONOVER. Yes, but I don't understand your point.

Senator RUDMAN. I want to look at page 10 again. I won't drag this out, Mr. Conover. I am going to tell you any fair inference from testimony here today is that your office did nothing to cooperate in any meaningful way with the U.S. Attorney in Boston. As a matter of fact, your office gave the U.S. Attorney misleading information. I am not saying deliberately, but the information they gave him was misleading.

They said, am I correct, that there are no problems with the Bank of Boston as far as title 31 is concerned; is that not correct?

Mr. **Luke**. Senator, at that time a Customs official went to see the regional administrator in Boston whose name is Mr. Gridley, as you indicate. There was a discussion. That discussion went to establishing a task force. They asked at that time whether they could have access to documents, including the report of the examiners who had gone back to First National Bank of Boston. Those papers were thereafter to be provided with the permission of the Washington office.

Senator **Rudman**. Let's go to one of your own memoranda then. Maybe we can get at this differently. Do you have a copy of your memorandum dated January 4, 1983, to the file by Ralph Gridley, regional administrator?

Mr. **Luke**. We are familiar with that document.

Senator **Rudman**. Let me not read the entire document. Let me read two significant parts of that document. It says, "National Bank Examiner Connors presented an overview of his findings, including the observation that he believed the bank to be in substantial compliance." Is that correct?

Mr. **Luke**. That's correct.

Senator **Rudman**. So the fact is that after Mr. Rollo, who will testify here later, who works for Mr. Connors who works for Mr. Gridley, after Mr. Rollo did his audit and his examination, he reported to his superior that everything was fine at the Bank of Boston as far as title 31 is concerned; correct?

Mr. **Luke**. And insofar as the office understood, that was correct.

Senator **Rudman**. And, in fact, Mr. Rollo will testify here later that when he went in to do this examination of the Bank of Boston, he was totally unaware of the requirement that title 31 requires transactions with foreign banks to be reported; is that correct?

Mr. **Luke**. I believe that the testimony you heard so far from the Comptroller is that he was unfamiliar with that requirement. I think that's consistent with Mr. Gridley's statement to the Customs official that as this office understood at that time, the Bank of Boston had corrected the domestic violations and, therefore, was not in violation.

Senator **Rudman**. Exactly. And that whole error was passed up the chain because the man who was in the trenches who had to enforce title 31 didn't even know what he was looking for; is that not correct, Mr. Conover?

Mr. **Conover**. I said that earlier.

Senator **Rudman**. It is not a question of training. He didn't even know the existence of the requirement.

Mr. **Conover**. Well, of course, it's an issue of training. Or it's an issue of communications, one way or the other. It's an issue of imparting knowledge from one party to another.

Senator **Rudman**. Well, Mr. Conover, I suppose if a New Hampshire State policeman passed a body in a gutter with two holes in the forehead and did nothing about it and told the police he didn't know there was a law against homicide, I suppose that is a lack of training, too. This seems to me an absolute basic requirement. Title 31 has been on the books for a while. In 1980 these regulations came out. You have examiners going into the Bank of Boston not even knowing that $1 billion in currency transactions are required to be reported.

You say that is training; I say that is gross negligence. Let me just go on to another question.

We've asked your agency for the file concerning the Bank of Boston inquiry; is that correct?

Mr. CONOVER. I believe so.

Senator RUDMAN. The answer we have received from your office is that the file is missing; is that correct?

Mr. LUKE. I have not heard that characterization before, Senator.

Senator RUDMAN. Well, do you have the file?

Mr. LUKE. When you speak of a file, I am not sure what documents you are referring to. There are something on the order of 20 file cabinets of workpapers on that bank.

Senator RUDMAN. Let's talk about the work file. Maybe I didn't define it enough. We have a work file. I have been looking for it and asked the staff for it for 2 weeks. There is a work file our staff asked for. We have been told that it was sent to Treasury. Treasury denies ever receiving it, and we have asked you for a letter of transmittal of that file, and you have been unable to produce that. Have you found the work file?

Mr. LUKE. Senator, I believe what you are referring to is a set of papers which have been called the workpapers when the examiner went back into the bank.

Senator RUDMAN. Fine.

Mr. LUKE. They have certainly been available, and it was my understanding they had been provided to Mr. Rinzel earlier in the week.

Senator RUDMAN. I will yield, Mr. Chairman, to Mr. Rinzel, because this is very important.

Mr. RINZEL. We were advised that the work file had been transferred to Treasury, is that correct, Mr. Stankey's office? That is what you told us. The workpapers regarding the currency transaction matters for the Bank of Boston from your examination were sent to Treasury; that's what you said, is that correct?

Mr. LUKE. I believe I now understand the gist of the question. If I can try to give you some sense——

Senator RUDMAN. I want to know where the file is, that's all. I would like to see the file.

Mr. LUKE. We believe that the documents that were created in the bank at Treasury's request when our examiner went in to look have been preserved in the form of Xeroxed copies, and we have made those available to the committee.

With respect to the originals of the documents, as the Comptroller has testified, we believe we provided those to Treasury either in late 1982 or early 1983. We do not have those documents. We believe we have the copies, and we have provided those to the committee.

Senator RUDMAN. Well, let me renew the request for the orignals, and let me renew the request for the transmittal. I am not saying I believe or disbelieve copies, but I have been in investigations too long. I want to see the original workpapers because some of the memorandums we have in our possession make me very suspicious of what is going on here, and I would like to see those papers.

I only have one final question for you, Mr. Conover, and that is, coming back to the question of training, I would like to give you an opportunity to justify, since I may have cut you off earlier, how it is that even without specific training that a bank examiner was not aware of the requirement for the reporting of foreign currency transactions?

Mr. CONOVER. I can't justify it, Senator.

Senator RUDMAN. Well, Mr. Chairman, I don't have any other questions. I think we have here really an abysmal performance by examiners, and I don't say I can blame them; maybe they didn't know. I suppose if the captain of the *Titanic* had survived that incident, he would have testified that he should have looked for icebergs. The fact of the matter is, your navigator, the Treasury Department, told you specifically in 1982 to look for the icebergs. You went ahead, you crashed into them; as far as I am concerned, you sank.

I think it is a sorry performance, Mr. Conover. I hope you do a better job in other areas. I don't have much faith from what I have seen in this investigation. Thank you, Mr. Chairman.

Chairman ROTH. Senator D'Amato.

Senator D'AMATO. Mr. Conover, I have to suggest to you that I find it difficult, looking at the memorandum from the Comptroller, "Bank Issuance, Comptroller of the Currency, National Banks"; is that yours?

Mr. CONOVER. Yes, it is.

Senator D'AMATO. It is signed by Paul M. Homan, Deputy Senior Comptroller.

Mr. CONOVER. That's correct.

Senator D'AMATO. You sent this bulletin—the one I am referring to is amendments to 31 CFR 103. It is dated March 28, 1980. You sent this out to all the banks; is that correct?

Mr. CONOVER. That's correct.

Senator D'AMATO. If you sent it to the banks, you didn't tell your examiners about it?

Mr. CONOVER. No, it was also sent to examiners. On the second line of the address it says, "To All Examining Personnel."

Senator D'AMATO. It seems to me that the Comptroller of the Currency did not really give any great cognizance to the Bank Secrecy Act provisions because anyone should be able to understand that. And particularly—there are five points—it doesn't take any great amount of training.

Mr. CONOVER. That's correct.

Senator D'AMATO. You said you are not aware of what the situation is in other jurisdictions, and yet we read where today by way of the news media it gives accounts that 45 other banks apparently have these currency violations.

What will you be doing to ascertain the extent of violations of the law, because I suspect there are many; I suspect they are as prevalent in smaller banks, if not more prevalent than in larger banks, to undertake a thorough review of those violations of law with respect to money laundering?

Mr. CONOVER. Obviously, we intend to emphasize this Bank Secrecy Act compliance in our future examinations.

Senator D'AMATO. How will you do that?

Mr. CONOVER. By making sure that examiners both understand the law and are cognizant of the procedures that need to be carried out.

Senator D'AMATO. How long will it take them to understand the law? If they can't read and understand this simple memo? I mean you are making it sound like it's a very difficult procedure.

Mr. CONOVER. I don't mean to imply that at all, Senator. I think it will take a serious reminder on our part to our examining personnel as to the specific content of that law, and we intend to give such a reminder.

Senator D'AMATO. Are you going to raise this to a certain level so that this subcommittee and the Congress can get a report back as to how widespread money laundering is in this country?

Mr. CONOVER. We have already said that we would report back to the subcommittee as to our success and what we have done to carry out the steps proposed to rectify this matter.

Senator D'AMATO. Let's look at the steps that you take at the present time. When your auditors came back in Boston in this particular case and said they are in compliance, do you know how they arrived at that decision? Isn't there a module, module 1?

Mr. CONOVER. Yes, there is.

Senator D'AMATO. Isn't that module 1 really the bank asking or the Comptroller's representative asking the examiner "Are you in compliance?" And the bank is saying basically yes, we are in compliance?

Mr. LUKE. Senator D'Amato, if I can respond to that, in the particular case of the Bank of Boston, module 1 was not performed.

Senator D'AMATO. What is module 1?

Mr. LUKE. Module 1 is a procedure which covers the basic examination techniques. I probably should defer to Mr. Selby to give you the specific particulars. It involves, among other things, asking the bank if it is in compliance with a large number of subsets in the cash program, including many questions on part 103.

Senator D'AMATO. You ask the bank if they are in compliance?

Mr. LUKE. That is one of the parts of module 1; that is correct.

Senator D'AMATO. What is the other part? If the banks say, yes, we're in compliance, what do you do thereafter?

Mr. LUKE. There are parts checking the bank's internal controls, checking their audit department to make sure they are doing their——

Senator D'AMATO [interposing]. Are you aware where that has been carried out? Do you have any information you can give this subcommittee as to when you carried out further examinations other than asking if the bank is in compliance?

Mr. LUKE. I am sure we can provide that information. We go well beyond that.

Mr. CONOVER. We can provide you with that information.

Senator D'AMATO. What did you do in Boston?

Mr. LUKE. In the case of the Bank of Boston, the examiner did not use the procedures which had been promulgated in November 1982 to which you are now referring. The examiners updated workpapers in the bank. They should have used the new procedures; they did not.

Senator D'AMATO. If Shawmut had not come forward, would you have known of any violation?

Mr. LUKE. Senator, in the case of the Shawmut Bank, I feel inhibited about going into the matter because there has been no conviction. We have not conducted a thorough investigation there. I don't think it would be fair either to that bank or anyone involved.

Senator D'AMATO. Let me simply suggest, because I don't mean to intrude on the time of my colleagues who have been most generous in providing me the opportunity of putting forth some of these questions: I think the Comptroller's action or lack of actions in these cases is inexcusable. There is absolutely no logical defense, not since 1980, and you mention in your attempt to take credit almost for the operation down in Florida, what are law enforcement agencies and the Comptroller's Office doing when we try to underscore, and I think it has been something that has been open, and we have been aware of it and have been working with foreign governments to attempt to get cooperation, and then we find the Comptroller's Office literally doing nothing about it, saying that all of their field people knew nothing about it? And I suggest to you if they didn't know anything about it in Boston, they didn't know about it in any other place, because you never took any kind of action, other than send out this memorandum. And there were no reports, and it certainly has not been a high priority.

You couldn't assign any priority to this regulation whatsoever. And I would hope that it would take less than 6 months to come forward to the people of this country, as well as the Congress, to demonstrate a very real and concerted action and activity. I wouldn't be shocked to see hundreds of institutions on various lists for money laundering violations or certainly noncompliance with title 31. I don't believe we should have to wait 6 months for you to undertake what you should have been doing these past 4 years. Thank you, Mr. Chairman.

Chairman ROTH. Mr. Rinzel.

Mr. RINZEL. Mr. Conover, it is my understanding that your agency follows essentially the same procedures in examining banks for title 31 compliance as the other Federal agencies that have responsibility in this area, like the FDIC and the Federal Reserve. In fact, you have a committee that worked out these procedures and you use the same forms in conducting these examination; is that a correct assumption?

Mr. CONOVER. That's correct.

Mr. RINZEL. Would it be also a fair assumption the other agencies are probably performing at the same level in this area as the Comptroller's Office?

Mr. CONOVER. I wouldn't surmise that. I think you will have to talk to the other agencies about that.

Mr. RINZEL. Could you tell us, are you aware or is anyone on your staff aware of exactly when the Shawmut Bank was examined after 1980, what years were your examiners——

Mr. CONOVER [interposing]. It would have been examined in 1981, 1982 and 1983, and it is currently under examination.

Mr. RINZEL. Is it true that your examiners detected and reported no violations of the Bank Secrecy Act as a result of those examinations.

Mr. CONOVER. As a result of the examinations in 1981 through 1983, that would be correct.

Mr. RINZEL. Just to attempt to clarify a little bit on the lost file, we asked your staff for access to the work file from the Bank of Boston, and that portion of it regarding title 31 compliance. We were told that it had been transmitted to Treasury and that Treasury had lost it, specifically transmitted to Mr. Stankey's office. Mr. Stankey had lost it; your staff attempted to reconstruct the file, is that correct, from bank records?

Mr. LUKE. Our staff went to the bank to review the workpapers that are kept in our area there. They located documents from which to reconstruct it. Pardon me, Mr. Rinzel, I have to correct one minor nuance there. We believe we provided those papers to Treasury. We are unable to state if they arrived, or how they were handled by Mr. Stankey. We have not at any time suggested that Mr. Stankey has lost them.

Mr. RINZEL. Excuse me, the file has been lost someplace.

Mr. LUKE. So far as we know.

Mr. RINZEL. Although you attempted to reconstruct the file from the papers in the bank, you are not certain if you are able at this point to reconstruct that work file; is that correct?

Mr. LUKE. We are unable to say what the complete file was, although we submitted documents giving the results of the examination in the bank by Mr. Rollo.

Mr. RINZEL. And you have been unable to locate any letter of transmittal to the Treasury on this file?

Mr. LUKE. In fact, the way we understand it, it was transmitted by hand by an examiner so it may be consistent there is no transmittal.

Senator RUDMAN. May I ask one question on that point? Would it be normal practice handling documents between Federal agencies, even though they were not sent by courier, brought by a person, to be left in another office, not to get a receipt for the file, letter of transmittal? Wouldn't you get some kind of document showing you had delivered it X to Y?

Mr. CONOVER. You would think so. We didn't, as far as I can tell.

Senator RUDMAN. And diligent efforts have been made to locate that file?

Mr. CONOVER. Yes, sir; from the outset, we have known the subcommittee was interested in this file, and, obviously, we were interested in the file. We are just as concerned as you are that we can't find the original file.

Senator RUDMAN. I hope efforts will continue to find it. I think the original of that file might disclose some information I would like to look at.

Chairman ROTH. Mr. Conover, my last question is, do you have any suggestion or recommendations as to how either the law or the regulations can be strengthened?

Mr. CONOVER. I think the law, as it is, is pretty clear. I think the policies and procedures that are in place are good ones. We have to make sure that they are used, and we're committed to doing that. I think the proposals that are contained in Senator D'Amato's two bills will be a tremendous help in dealing with the basic money laundering question, which is the one you are trying to get at here. We support the thrust of those two bills.

Chairman ROTH. Do you have any kind of followthrough as to the adequacy of your bank examiners' work? Do you attempt to determine how proficient they are in what they are doing?

Mr. CONOVER. Yes, we do.

Chairman ROTH. How do you do that?

Mr. CONOVER. The report of the examination carried out on a particular bank goes through several levels of review before it is submitted to the bank as a final document. That is one level——

Chairman ROTH [interposing]. It was never uncovered that your own examiners were not familiar with the requirements of the law.

Mr. CONOVER. That is certainly the case.

There are also performance evaluations done on individual examiners by their superiors based on work they have done throughout the year.

Chairman ROTH. I want to underscore again that we do want to have a report as to what corrective action is taken. I think you must understand that this subcommittee is not satisfied with the job that your office is doing. I think if we are critical of the failure of the banks to comply, we're equally concerned about the lack of enforcement on the part of the Comptroller. I think that is critically important that if you have a committee with the other regulators that this be taken up at an early meeting with that group to see whether or not your examination and your papers are adequate. Thank you.

[The information requested, subsequently received by the subcommittee, follows:]

COMPTROLLER OF THE CURRENCY,
ADMINISTRATOR OF NATIONAL BANKS,
Washington, DC, April 1, 1985.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Several issues that were raised during my testimony on March 12, 1985, concerning the First National Bank of Boston ("FNBB"), are in need of clarification and/or elaboration. I am submitting this letter to provide information that I believe is critical to the Subcommittee's review, and I ask that it be made a part of the hearing record.

First, I believe considerable confusion may exist regarding the way in which the Office of the Comptroller of the Currency ("OCC") conducts its examinations. The OCC regulates 4,900 national banks. These federally-chartered banks represent approximately 10 percent of the financial institutions that are subject to the requirements of the Bank Secrecy Act ("BSA").

Under the National Bank Act, OCC must promote and ensure a safe and sound National Banking System. The examiners' main objective, therefore, is to make a qualitative analysis of the condition of the bank under examination. The scope of an examination may include a comprehensive review of every phase of banking activity, or it may concentrate on specific areas that have been identified as posing a greater degree of risk to the bank's soundness or to that of the system.

In recent years, the OCC has been forced to devote less of its time to detailed audit and verification procedures. In light of the problems facing the industry over the last several years, it has become increasingly important to direct our efforts to areas that pose the greatest risk. Examiners cannot be present in a bank 365 days a year, nor can they be expected to review the many millions of individual bank transactions. Our examination approach recognizes that it is the responsibility of a bank's management and board of directors, working with the bank's internal and external auditors, to develop and adhere to sound policies, procedures and controls in all areas, including compliance.

Examination procedures exists to guide our examiners in qualitatively evaluating all of a bank's major functions. Notwithstanding the impression the Subcommittee may have formed from the hearing, examination findings are not derived simply from questioning bank personnel. The examination procedures instruct examiners to independently substantiate bank-provided information through firsthand observation, testing, or further inquiry from an independent source. If an examiner concludes that a bank's policies or controls are inadequate, the examiner must broaden the scope of the examination to assure the integrity and reliability of the financial records being used and the information provided.

Use of our current examination procedures has resulted in the detection and correction of countless problems in thousands of banks. Specifically, with regard to our procedures for ensuring compliance with BSA, Assistant Secretary Walker, in his testimony before the Subcommittee, indicated that he believed these procedures to be effective. The breakdown that occurred in our review of the BSA in FNBB resulted from not using the correct examination procedures. This breakdown is not cause for criticism of our examination procedures. We remain firm in our belief that our existing approach is consistent with an overall program that encourages banks and the OCC to meet their individual and unique responsibilities.

A second area that needs clarification is examiner training. Given the unique nature of the occupation, there are few college courses that actually prepare an individual to be an examiner. Out of necessity, therefore, much of the training is on-the-job and by way of specially-designed courses. Last year, the OCC spent more than $14 million (9 percent of its budget) on training and associated costs. The OCC prides itself on the fact that it offers more than 90 internal and interagency seminars and self-study courses to its examiners, and encourages examiners to take advantage of outside seminars and courses at colleges and universities. We believe our long-standing commitment to training compares favorably with the other bank regulatory bodies, and, indeed, with most government agencies. As we stated in our testimony, however, we recognize the need to enhance training regarding the BSA, and we have already begun making improvements in this area.

Third, I believe statements I made relating to examiner familiarity with the 1980 changes to the BSA may have been misinterpreted. While our review of the Massachusetts banks has indicated that our examiners may not have been fully knowledgeable of the changes, it would be unfair to characterize the entire examining force as being unknowledgeable of the Act. Violations of BSA reported by examiners in other parts of the country, particularly in our Southeastern District, demonstrate overall proficiency with the regulation, including the 1980 changes. It should be noted that the 1980 changes were also not well assimilated by the industry, as indicated by the number of financial institutions which have recently announced reporting omissions relative to these changes.

The last issue that needs clarification, and one that I find particularly troubling, concerns the FNBB workpapers. Those workpapers consist of an October 8, 1982 memorandum and attachments from Examiners Conners and Rollo to Chief National Bank Examiner Wilson. In a letter to David D. Queen, Deputy Assistant Secretary (Enforcement), the OCC has formally requested Treasury to search its office and to request searches of IRS and Customs for the original FNBB workpapers. We will make the original workpapers available to the Subcommittee should they be located. In any event, we trust that it is now clear to the Subcommittee that you have, and did have at the time of the hearing, copies of those workpapers. Any suggestion that this Office has intentionally withheld or altered documents provided to the Subcommittee is completely unfounded.

I appreciate the opportunity to provide this additional information.

Very truly yours,

C. TODD CONOVER.

Chairman ROTH. At this time, we will call forward Mr. Rollo and Mr. Conners. Gentlemen, will you please remain standing and raise your right hand.

Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ROLLO. I do.

Mr. CONNERS. I do.

Chairman ROTH. As I understand, there are no preliminary statements, so I am going to ask Mr. Rinzel to begin the questioning.

TESTIMONY OF THOMAS ROLLO, BANK EXAMINER, COMPTROLLER OF THE CURRENCY; AND STEPHEN CONNERS, FORMER SENIOR NATIONAL BANK EXAMINER, COMPTROLLER OF THE CURRENCY

Mr. RINZEL. Mr. Conners, could you tell us your full name and where you work?

Mr. CONNERS. My name is Steve Conners. I work for the Patriot Bank Corp., Boston, MA.

Mr. RINZEL. In 1982, were you the bank examiner in charge of the Comptroller examination of the Bank of Boston?

Mr. CONNERS. Yes, I was, sir.

Mr. RINZEL. Please explain the procedures your examiners followed when examining the Bank of Boston for compliance with title 31 in 1982.

Mr. CONNERS. The procedures followed, I assigned Mr. Rollo the cash program. Included in the cash program were the title 31 requirements.

Mr. RINZEL. Did Mr. Rollo report back to you after conducting that examination that he had not found any problems with the compliance of title 31?

Mr. CONNERS. No. Mr. Rollo reported initially that there were some problems. We received as part of the examination package, we received, prior to going into the bank, we had some CTR forms returned or noted by the Treasury Department as being incomplete or not proper documentation on them. The bank had not responded. I gave those to Mr. Rollo also.

He discussed that problem with Mr. Cox, and it was agreed that Mr. Cox would centralize the reporting of the CTR's and ensure compliance by the tellers and branch managers for reporting the incomplete forms.

Mr. RINZEL. That wasn't a problem, the only problem was with the forms; they were not centralized. The problem was some of the people on the exemption list shouldn't have been on there at all and that is noted in the Treasury list, isn't it?

Mr. CONNERS. No, it was not.

Mr. RINZEL. There weren't X's and checks on this?

Mr. CONNERS. There was a list—there was an exemption list with X's and checks on it. I don't believe we knew the sources of the Xs and checks.

Mr. RINZEL. You did not know what they meant?

Mr. CONNERS. No.

Mr. RINZEL. Were you familiar with the requirements limiting the types of businesses that could be on exempt lists?

Mr. CONNERS. Yes.

Mr. RINZEL. And did some of these businesses arouse your interest or concern because they weren't of those type?

Mr. CONNERS. I don't personally recall reviewing that exemption list, sir.

Mr. RINZEL. You mean you do not recall reviewing it; I thought you just told me——

Mr. CONNERS. I saw the exemption list last week in the various hearings; yeah, last week.

Mr. RINZEL. In preparation——

Mr. CONNERS [interposing]. Preparation, yes, I saw the exemption list. I don't recall looking at it in the bank.

Mr. RINZEL. Prior to that time.

Mr. CONNERS. No.

Mr. RINZEL. Then how do you know that you got the list from Treasury?

Mr. CONNERS. I didn't say we got the list from Treasury.

Mr. RINZEL. Well, let me go back to what you said earlier. I thought you testified that you had received the list from the Treasury Department prior to going into the bank——

Mr. CONNERS [interposing]. No, excuse me, sir. What I said was that we had some forms that were improperly filled out, CTR forms were improperly filled out, and what I said is we checked those out and we discussed a better procedure for the bank to follow to submit those forms.

Mr. RINZEL. You did not then have an exemption list at all from the Treasury Department at the time of the commencement of your examination in 1982?

Mr. CONNERS. From the Treasury Department, no.

Mr. RINZEL. And you had the bank's list?

Mr. CONNERS. Tom did the examination. I was the examiner-in-charge.

Mr. RINZEL. I am just asking what you know at this time.

Mr. CONNERS. As far as I know, in our workpapers, we have a copy of the bank's exemption list; yes.

Mr. RINZEL. But you don't have any recollection of seeing it at the time of the examination in 1982?

Mr. CONNERS. I may have received it. I don't recall. It is possible that I did, however.

Mr. RINZEL. What problems, other than the failure to centralize the exemption list—is that what you are talking about? Is that the problem?

Mr. CONNERS. That was one of the principal problems, and that was the result of getting these forms from Treasury. My understanding is these forms came from Treasury; they were incomplete. They were the forms filled out by the tellers and they were incomplete.

Mr. RINZEL. Well, that is a different problem than failure to centralize the exemption list; isn't it?

Mr. CONNERS. I am sorry. I misunderstood the question then. We are talking about the exemption list or submitting the forms to the Treasury?

Mr. RINZEL. I asked you what problems you identified, and you said one of the problems was the failure to centralize the list, and then you said——

Mr. CONNERS [interposing]. I'm sorry.

Mr. RINZEL. What are the problems that you identified initially?

Mr. CONNERS. That was the problem; that is, the forms were not being properly filled out by some of the tellers or branch managers, and the forms submitted to Treasury—Treasury would then send those forms back to the bank asking for complete taxpayer ID number, address, whatever, that was missing on the forms, and they were not getting a response on a timely basis.

Mr. RINZEL. And you brought that to the bank's attention?

Mr. CONNERS. Tom did; yes.

Mr. RINZEL. During the course of the examination, and this went on for a long period of time, from September until November of 1982, this examination; is that correct?

Mr. CONNERS. The examination of the bank did; yes.

Mr. RINZEL. And during the course of that examination, did you get a specific request from the Treasury Department to look at the title 31 compliance problems in the Bank of Boston and advising you that the head of the coin and currency department apparently had a misunderstanding of what the law was; did you get such a request from Treasury?

Mr. CONNERS. I receive a memo from, I believe it was, William Powis which when I received it, it was approximately beginning of October—first or second of October. I called Tom. Tom was at that time working in Pittsfield on an affiliated bank of the First of Boston, and I called Tom back and I asked him to find out just what the problem was with the reporting, why this discrepancy existed as included in that memo.

Mr. RINZEL. So Mr. Rollo, at your request, did an additional examination?

Mr. CONNERS. Yes.

Mr. RINZEL. What was the result of that examination?

Mr. CONNERS. The result of the examination was that we discovered the fact that the bank was not filing international and the volume transactions on the domestic banks which accounted for essentially the descrepancy in the total over that 4-month period.

Mr. RINZEL. You found that as a result of Mr. Rollo's further inquiry, you determined that the banks were not filing CTR's for international transactions; is that what you said?

Mr. CONNERS. Yes, it is included in that memo, I believe, sir.

Mr. RINZEL. Where did you get that information from?

Mr. CONNERS. Tom got that information.

Mr. RINZEL. Well, Mr. Rollo told us during our interviews that he wasn't aware that it was a violation in 1982, the failure to report international transactions; is that correct, Mr. Rollo?

Mr. ROLLO. Yes, I believe so.

Mr. RINZEL. So how could you have advised Mr. Conners that they weren't in compliance when you weren't aware that failure to file such CTR's was a violation?

Mr. ROLLO. I don't have an answer to that question, Senator. I prepared my memorandum; I noted there was a problem in the international currency reporting area, in the coin and currency operation at the First of Boston. I forwarded that information to Mr. Conners and that information was, I believe, forwarded into our regional office, and then I believe on to Washington.

Mr. RINZEL. Who prepared the report of the examination to the bank; is that you, Mr. Conners?

Mr. CONNERS. Yes, I prepared the report.

Mr. RINZEL. Isn't it true that the report of the examination makes no reference at all to any problem in international transactions?

Mr. CONNERS. That is true, sir.

Mr. RINZEL. What is the explanation for that?

Mr. CONNERS. Well, the explanation of that is that I misquoted the violation of law.

Mr. RINZEL. Please, I didn't hear.

Mr. CONNERS. I misquoted the violation of law. I should have put part 23 in there.

Chairman ROTH. Sorry; speak into the microphone.

Mr. CONNERS. I said we perhaps should have—not perhaps—we should have put part 23 in there, too. We knew the bank was not reporting international transactions. Tom's memo indicated that the bank was not reporting those transactions. He spent a couple of days. We talked to the gentleman——

Mr. ROLLO [interposing]. Dan Dormer.

Mr. CONNERS. Dan Dormer. We, I thought, adequately answered the Treasury's memo regarding the lack of reporting from the bank; I think we adequately answered the Treasury's memo. I responded what I believe was on a very timely basis. I pulled Tom out of another job. We answered the question. When we put the violation in the report, I should have expanded the cite. I was in error in not expanding the cite.

Mr. RINZEL. It wasn't simply a citation. Exhibit 16, which is in the record, is an excerpt from the report of examination from the Bank of Boston.

Mr. CONNERS. Yes.

Mr. RINZEL. And it is the only one paragraph that describes any problems in the bank—this is a letter that you give the bank telling them what their problems are?

Mr. CONNERS. It's a report of examination. That report of examination, I want to emphasize, is 250 pages. We are emphasizing one sentence in 250 pages.

Mr. RINZEL. One paragraph, and that is what tells the bank what you found. And the only thing that you point out as being a problem is failure to put domestic banks that they had cash transactions——

Mr. CONNERS [interposing]. I was in error on that, sir.

Mr. RINZEL. It wasn't simply a matter of not citing something; it was a matter of not citing what they were not in compliance with international——

Mr. CONNERS [interposing]. Tom, I believe, answered the Treasury memo adequately. I viewed it and I know we are talking money laundering here, a very serious subject. I viewed it not as money laundering; I viewed it as not filing some reports. They should have obviously filed the reports.

My understanding, in conversations with Tom, was that the bank was in contact with Treasury and that these reports would be filed. That was my understanding.

Chairman ROTH. Let me interrupt, if I might, here. You mentioned that this was one or two lines of how many pages?

Mr. CONNERS. Approximately 250 pages.

Chairman ROTH. 250 pages.

Mr. CONNERS. Yes.

Chairman ROTH. Had you or your subordinates been given any training as to the importance and requirements to title 31?

Mr. CONNERS. Had I personally?

Chairman ROTH. Yes.

Mr. CONNERS. No; but I think the law is clear. I don't think it is necessary. I was a senior National Bank examiner. I think the law was clearly written.

Chairman ROTH. You think the law itself was clear?

Mr. CONNERS. Yes.

Chairman ROTH. Was it the regulations that spelled out the specific requirements, not the law itself?

Mr. CONNERS. OK, the regulation; yes.

Chairman ROTH. What measures or steps did you take to make sure that your subordinates were informed about the requirements? Was there any formal training or was it pretty casual?

Mr. CONNERS. No; there are formal training programs on the job for all assistants. Tom, unfortunately, I don't believe, participated in a formal training program, but most assistants go through a formal training program at some time. And that is part of a cash program, and they would be trained as part of the cash program.

Chairman ROTH. Is there any written instructions or explanations about the law?

Mr. CONNERS. Yes.

Chairman ROTH. And those——

Mr. CONNERS [interposing]. I believe Tom reviewed those instructions before he did the examination.

Mr. ROLLO. Yes.

Chairman ROTH. Did they mention the fact that foreign currency exchanges with foreign banks had to be reported?

Mr. ROLLO. Do the exam procedures specifically state international currency transactions? I don't believe so, sir.

Mr. CONNERS. In certain areas——

Chairman ROTH [interposing]. You have 250 pages. Did Tom have to fill part of that out?

Mr. CONNERS. I had approximately 50 people working for me at various times in the bank. Not in CFI, in examining the bank. We were doing a complete examination of the bank.

Chairman ROTH. Do certain examiners specialize in certain parts of the requirements? Do you have certain examiners or specialists on title 31?

Mr. CONNERS. No, we don't. We have certain examiners who specialize in international. We have examiners who specialize in consumer compliance. We have examiners who specialize in Treasury functions. We have a number of specialists.

Chairman ROTH. In other words, it was 250 pages long; you did have 50 different examiners involved in that examination?

Mr. CONNERS. That is an approximation; yes.

Mr. RINZEL. Could I ask Mr. Rollo some questions? Could you state your full name, sir? I don't think we got that yet, and tell us where you are employed.

Mr. ROLLO. Thomas Rollo. I am an assistant bank examiner assigned to the Boston regional station.

Mr. RINZEL. You were in 1982, we hear from Mr. Conners, assigned a portion of the examination of the Bank of Boston; is that correct?

Mr. ROLLO. Yes.

Mr. RINZEL. That included the currency transaction portion.

Mr. ROLLO. Yes.

Mr. RINZEL. What did you do in your examination, the initial portion of it?

Mr. ROLLO. The initial portion, which evolves out of the attached program, as we call it, basically what I did is I reviewed with the person responsible for the currency reporting requirements in the Bank of Boston, I went over what we call our checklist with that person and basically I checked the systems in place that the Bank of Boston had at the time to ensure compliance with that particular set.

Mr. RINZEL. That checklist essentially asks them if they are filing the reports they ought to be filing——

Mr. ROLLO [interposing]. If they maintain records. It's a broad overview, sir.

Mr. RINZEL. And you just asked them that question and they said, yes, and you mark yes on the checklist; is that correct?

Mr. ROLLO. Yes.

Mr. RINZEL. Did you identify any problems in the course of this examination?

Mr. ROLLO. At that time, yes, Senator.

Mr. RINZEL. I am not a Senator.

Mr. ROLLO. Excuse me. Yes, I did. They had a problem with some incorrect currency transaction reports that had been returned from IRS to our office for lack of certain information on those forms.

Mr. RINZEL. Did you see those forms?

Mr. ROLLO. Yes, sir.

Mr. RINZEL. Did they have checks and X's on them?

Mr. ROLLO. No, sir.

Mr. RINZEL. You didn't see that portion?

Mr. ROLLO. No, sir.

Mr. RINZEL. Nor the letter from the Treasury Department to the bank saying some of these companies shouldn't be on these lists?

Mr. ROLLO. No, sir.

Mr. RINZEL. As part of your examination, you did not have occasion to look at the exempt list?

Mr. ROLLO. Yes, I asked the bank for a copy of their exempt list; that is correct.

Mr. RINZEL. You looked at the exempt list?

Mr. ROLLO. Yes.

Mr. RINZEL. Did you note any companies on the exempt list that were ineligible to be there?

Mr. ROLLO. Not that I can remember; no.

Mr. RINZEL. What did you do when Mr. Conners called you back to the Bank of Boston in response to the specific requests of the Treasury Department to look into this problem?

Mr. ROLLO. Well, we believed that the problem was that the Treasury Department was looking for an understanding as to what made up the volume of currency shipped between the Federal Reserve Bank of Boston and the First National Bank of Boston, I think, between the period of January and April 1982. I contacted the individual in charge of the coin and currency operation——

Mr. RINZEL [interposing]. That was Mr. Dormer?

Mr. ROLLO. Yes. I asked him if he could forward me information that would explain where that volume of currency went to. He did. I put together a memorandum and attachments to that showing where that money went to.

Mr. RINZEL. Did you ever tell Mr. Dormer that he was required to file CTR's for foreign currency transactions?

Mr. ROLLO. Not that I can remember; no.

Mr. RINZEL. In fact, you were not aware of that requirement at that time yourself, were you?

Mr. ROLLO. Based upon the memo that I wrote at the time, Mr. Rinzel, I would have to say that I was aware that that was a problem, 31 CFR 103.

Mr. RINZEL. Why didn't you tell Mr. Dormer then he was required to file those CTR's?

Mr. ROLLO. Excuse me, can you repeat that?

Mr. RINZEL. If you were aware that was a requirement and you were aware they weren't doing it, why didn't you tell them they were in violation?

Mr. ROLLO. I don't know. I believed that he had been working with the Treasury Department on the matter and——

Chairman ROTH. Senator Rudman.

Senator RUDMAN. Mr. Rollo, I want to get one thing straight. It is a real mystery here, and maybe we can clear it up. Mr. Conners testified he put certain information in a report or was aware of it and didn't put other in the report, but he got that from you.

Mr. ROLLO. Yes.

Senator RUDMAN. Obviously, Mr. Conners wasn't at the bank when you were at the bank.

Mr. ROLLO. Yes.

Senator RUDMAN. The two gentlemen sitting behind me, Mr. Barbadoro and Mr. Morley from our staff, interviewed you at great length and you were very cooperative. I have a summary of that interview, and in that interview, you tell them—I will read it to you. "Mr. Rollo informed us that he did not himself know at the time of his conversation with Dormer that the regulations required CTR's to be filed of foreign currency transactions."

Is that an accurate statement of what you told Mr. Morley and Mr. Barbadoro?

Mr. ROLLO. Yes, I believe I stated that; yes.

Senator RUDMAN. Today in response to question from Mr. Rinzel, you say now you think you did know.

Mr. ROLLO. Yes, Senator. Based upon reviewing my memo from that period of time, 2½ years ago, the context I put it in there, I would say I had to know at the time.

Senator RUDMAN. So your testimony now is that after reviewing a memo which you had not reviewed at the time you spoke to Mr. Morley and Mr. Barbadoro, is that correct, you had not reviewed that memo at that time?

Mr. ROLLO. I don't believe—I believe I looked at the memo; yes.

Senator RUDMAN. But after looking at it again, you now want your best testimony to be that when you were at the Bank of Boston, you were aware that CTR's had to be filed on foreign currency transactions?

Mr. ROLLO. Yes, Senator.

Senator RUDMAN. And you did tell Mr. Conners that, which is obviously how he knew?

Mr. ROLLO. Yes.

Senator RUDMAN. It would seem logical because there is no other way for Mr. Conners to know unless you told him.

Mr. ROLLO. Yes.

Senator RUDMAN. When you talked with Mr. Dormer, since you knew that the requirement existed, did you ask to see the file of forms? I think they are 4890 or 4980.

Mr. ROLLO. The file form 4790 (sic), Senator.

Senator RUDMAN. Right.

Mr. ROLLO. No, Senator.

Senator RUDMAN. You did not ask to see them?

Mr. ROLLO. No.

Senator RUDMAN. Would it be normal to ask to see at least a sampling of the forms?

Mr. ROLLO. Yes.

Senator RUDMAN. Could you tell us maybe why you didn't since there was a lot of money involved here?

Mr. ROLLO. Previous to my involvement with Mr. Dormer when I was first in the bank, I had gone over, as I mentioned before, the checklist, which there is a question on there relating to 4790 (sic), form 4790 (sic). The answer was in the affirmative from the bank that they were filing those forms.

Senator RUDMAN. Who gave you that answer?

Mr. ROLLO. I believe it was Mr. Cox.

Senator RUDMAN. Mr. Cox who was Mr. Dormer's superior?

Mr. ROLLO. No, I don't believe so. Mr. Cox, I believe, was in charge of branch administration at the Bank of Boston.

Senator RUDMAN. And it is your testimony here today that it is your best recollection that Mr. Cox advised you that those forms, in fact, were being filed?

Mr. ROLLO. The 4790's, (sic) yes, Senator.

Senator RUDMAN. Were they, in fact, being filed?

Mr. ROLLO. As far as I knew they were; yes.

Senator RUDMAN. Do you know any differently now?

Mr. ROLLO. No.

Senator RUDMAN. How about all the other CTR forms on foreign currency, did you ask to see the other forms? There were some other ones.

Mr. ROLLO. No, Senator.

Senator RUDMAN. Any reason why you would not, or is it your normal procedure simply to ask people and essentially take their word for it?

Mr. ROLLO. Basically the procedure is if no problems have been noted by the internal audit department and we feel based upon questioning bank personnel, we would not go further than that, Senator.

Senator RUDMAN. How long have you been an employee as assistant bank examiner, Mr. Rollo?

Mr. ROLLO. I have been a commercial assistant national bank examiner for approximately 3 years.

Senator RUDMAN. And before that?

Mr. ROLLO. I was an assistant national trust examiner, and prior to that, I was a financial intern in the corporate division in the Washington office.

Senator RUDMAN. Did you receive any specific training for the job you currently hold?

Mr. ROLLO. Specifically, no.

Senator RUDMAN. How about the job prior; was there a specific training program for that in which you actually came in and went to school for 4, 6, 8 weeks, or 3 days, something?

Mr. ROLLO. When I was assigned as assistant trust examiner, I attended a basic trust examination school; yes.

Senator RUDMAN. How long of a duration?

Mr. ROLLO. That was, I believe, a week.

Senator RUDMAN. Was your educational background financial?

Mr. ROLLO. Yes.

Senator RUDMAN. In accounting?

Mr. ROLLO. Finance and international business, Senator.

Senator RUDMAN. Thank you, Mr. Chairman.

Chairman ROTH. Senator D'Amato.

Senator D'AMATO. Thank you, Mr. Chairman. Mr. Chairman, I would suggest that Mr. Rollo's testimony is rather consistent with that which I suggested to Comptroller Conover, that, indeed, investigations with respect to compliance of section 31 were basically based on the agent or the officer asking the bank officials if they were in compliance, and once they indicated they were in compliance, you were accepting their word; is that correct, Mr. Rollo?

Mr. ROLLO. Yes, Senator.

Senator D'AMATO. In other words, basically, you said, "Are you meeting those requirements with respect to the adequacy of filing," et cetera. If the bank official in charge, whether it is First Bank of Boston or another one said, "Yes, we are," you took their word.

Mr. ROLLO. Yes, Senator.

Senator D'AMATO. I have here—well, let me suggest to Mr. Conover—is he still here? That is how your investigations are being undertaken. Does that sound adequate to you?

Mr. CONOVER. No, it doesn't because there are a series of steps that are gone through. That is why there are two modules with different parts in each module that have to be carried out. I think we indicated earlier that the entire module 1 for the Bank of Boston was not carried out. It seems obvious on the face of it that it should have been.

Senator D'AMATO. I would suggest you probably find that is the same thing in every other bank that you ask for compliance throughout the country.

Let me suggest to you, then, I don't know if you want to come on back up here——

Chairman ROTH [interposing]. Let's proceed with the witnesses we have here.

Senator D'AMATO. Take a look at this memo, September 21, 1982. You have it there.

Mr. ROLLO. Yes.

Senator D'AMATO. Did you ever see that memo?

Mr. ROLLO. Yes.

Senator D'AMATO. When did you first see it?

Mr. ROLLO. When I was called back into the Bank of Boston by Mr. Conners.

Senator D'AMATO. Doesn't that give you any kind of idea that there were serious problems there? If you read this, all the data indicates, if you read page 2, special compliance enforcement efforts will be required especially by the Federal agencies that supervise commercial banks to raise the compliance level, and throughout it seems there are large amounts of money that are being transmitted and saying we don't have an account; there are no reports about it. This is Treasury's memorandum, Karen J. Wilson, Chief National Bank Examiner, Comptroller of the Currency, from Robert Powis, Deputy Assistant Secretary for Enforcement from Treasury.

Did that give you any hint they weren't complying?

Mr. ROLLO. I can't recall, Senator, back then exactly. I believe I sat down with Mr. Conners and went over that specific paragraph trying to determine which way to respond to this inquiry.

Senator D'AMATO. Mr. Conners, did you ever respond to this memo?

Mr. CONNERS. Yes, we responded on a very timely basis, Senator.

Senator D'AMATO. What was your response?

Mr. CONNERS. That's a memo that I believe you have up there.

Mr. ROLLO. It is dated October 8th, I believe.

Mr. CONNERS. October 8th. We responded as quickly as possible, and I remained in the bank for the better part of 2 months after that. I assumed that if that response was inadequate, somebody would have gotten back to me and asked me to do more work.

Senator D'AMATO. Did you again basically take Mr. Dormer's word for the adequacy of their compliance——

Mr. CONNERS [interposing]. We knew they were in noncompliance at that point, Senator. But I viewed it as a problem that was being handled by people in the——

Senator D'AMATO [interposing]. That they were working toward compliance or to achieve compliance?

Mr. CONNERS. Yes.

Senator D'AMATO. All right.

Mr. CONNERS. As I say, we sent that memo.

Senator D'AMATO. Thank you, Mr. Chairman.

Chairman ROTH. Gentlemen, I think that is all the questions we have of you, but as I understand your testimony, there is really no formal training program for examiners within the department.

Mr. CONNERS. Could I say something, Senator?

Chairman ROTH. Yes.

Mr. CONNERS. Tom did not participate in the formal training program because Tom came on from another branch of the agency. He also came on at a time when we didn't have any other——

Mr. ROLLO [interposing]. There was no formal training crew as we call it in place when I came on to the commercial side.

Mr. CONNERS. We do have training crews established.

Chairman ROTH. What is a training crew?

Mr. CONNERS. A training crew takes new assistants, usually three or four, and puts them out in the banks with two or three experienced people, and they go through all the work programs up to a certain level, including cash. They grill them in great detail in many of the smaller institutions, and that is basically our training program for that level, for an assistant.

Chairman ROTH. If I understand what you are saying then, essentially the training program is based on learning on the job by being with some senior member?

Mr. CONNERS. Yes.

Chairman ROTH. But there is no formal program within the agency that attempts to educate or train the individual as to what to look for; it's pretty much left informally?

Mr. CONNERS. I think that is the formal training. I think it's a very effective program. It takes people and puts them out in the field rather than in a classroom, and they actually sit down and do work——

Chairman ROTH [interposing]. I don't want to—I think that can be a valuable part. What concerns me is that it would seem to me top management would want to make certain that its new employees, as well as the experienced employees knew what was particularly important and not leave it to chance that the experience might give that background to a new employee.

In other words, it seems to me it ought to be formalized a little more so that the new employee understands the importance of title 31. Was there ever any effort to educate you, Tom, on title 31 and its importance from the point of view of money laundering?

Mr. ROLLO. Specifically, no. My training when I came on to commercial was basically just on the job.

Chairman ROTH. Gentlemen, I want to thank you for being here today. Frankly, my concern is that this whole law, both in the public and private sector, has been taken too casually. Thank you very much.

[Further information in reference to the above, submitted by Mr. Rollo received subsequent to the hearing, follows:]

MARCH 21, 1985.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Senate Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I have been advised by counsel for the Office of the Comptroller of the Currency that I may submit to the Subcommittee a letter clarifying certain points that were raised during my testimony on March 12, 1985, concerning the First National Bank of Boston ("FNBB"). I would like to do so, and ask that this letter be made a part of the record of the hearings.

During my testimony, there was some confusion with respect to the "forms" that were provided to OCC examiners by the Department of the Treasury prior to the 1982 examination of FNBB. In particular, the confusion arose concerning currency transaction reports ("CTRs") and FNBB's exempt list. So that the record is clear, the Subcommittee should be advised that a few CTRs that had been improperly filled out were provided to us by Treasury for follow-up with FNBB during the examination. We were not provided with a copy of FNBB's exempt list by Treasury. The exempt list I reviewed during the 1982 exam was a copy from the bank's files.

My testimony with respect to whether I knew that FNBB was in violation of currency transaction reporting requirements at the time I performed the cash program for the 1982 examination and the follow-up reconcilement requested by Treasury is also in need of clarification. During my interview by your staff, I said that I did not know at the time that FNBB was in violation of the reporting requirements; during my testimony, however, I stated that I must have known that the bank was in violation. I would like to clarify that apparent inconsistency, and with counsel's assistance will undertake here to explain what I believe my states of knowledge to have been at these various times.

It is my present recollection, as it was at the time of my interview and at the time of my testimony, that FNBB had engaged in international currency transactions that had not been reported, and that the bank was discussing this matter with Treasury. I do not have a current independent recollection of whether I actually knew at the time that I was in the bank for the 1982 examination that the bank was in violation of reporting regulations. What my testimony was meant to convey was that, having had an opportunity to review my October 8, 1982 memorandum, I reached the conclusion that I must have known that there was a violation because of the language I used in that memorandum. I should have made clear that this was a present interpretation of that memorandum, but that the memorandum did not trigger an independent recollection of what I knew at the time. Thus, what my testimony was intended to convey, but which I am afraid was not articulated very well, was that I had reached the conclusion, upon a recent review of my October 8 memorandum and my interpretation of the language I used in that memorandum, that I must have known the bank was violating reporting requirements. However, I must reiterate that, while I have this present interpretation of what I wrote back in 1982, I have no independent recollection of what my state of knowledge actually was at that time. I apologize for any confusion that my failure to make that distinction clear has caused.

Finally, I would like to correct a misconception of the extent of the training that has been provided me by OCC. In response to the question, I believe that I testified that I had not had any formal training for the position that I now hold. My testimony was meant to refer only to training in the area of the Bank Secrecy Act and 31 C.F.R. Part 103. I have been provided extensive training in other areas of bank examination and regulation in connection with my job responsibilities. A listing of that training is attached hereto.

I appreciate the opportunity afforded me to clarify the foregoing points by this letter. I again respectfully request that this letter be made part of the record of the Subcommittee's hearings.

Sincerely,

THOMAS E. ROLLO.

Enclosure.

THOMAS E. ROLLO, TRAINING

1980: District Orientation—Introductory Bank Examination School; and Interagency Basic International Banking School (FFIEC).

1981: Interagency Trust School (FFIEC); Basic Trust School; and District Orientation.

1982: District ANBE School; Fundamentals of EDP; EDP in Community Bank Examinations; and Consumer Protection course.

1983: Consumer Compliance course; and District Credit Analysis course.

1984: AIB—Analysis of Financial Statements; and ANBE School for Advanced Study.

1985: International Credit course.

Chairman ROTH. Our last witness is the Honorable John M. Walker, Jr., Assistant Secretary for Enforcement and Operations of the U.S. Department of the Treasury, and Mr. Stankey. Would you both please raise your right hands?

Do you swear the testimony you will give this subcommittee to be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. WALKER. I do, Mr. Chairman.

Mr. STANKEY. I do.

Chairman ROTH. Please be seated. Introduce yourself.

TESTIMONY OF JOHN M. WALKER, JR., ASSISTANT SECRETARY FOR ENFORCEMENT AND OPERATIONS, DEPARTMENT OF THE TREASURY, ACCOMPANIED BY ROBERT J. STANKEY, ADVISOR, DEPARTMENT OF THE TREASURY

Mr. WALKER. Thank you very much, Mr. Chairman. As the Chair has noted, I am accompanied by Robert Stankey, who is a senior advisor to the Assistant Secretary for Enforcement and Operations of Treasury with responsibility in the area of the Bank Secrecy Act, and specifically to enforcement and compliance with that act.

Mr. Chairman, members of this subcommittee, at the outset, I would like to compliment this subcommittee, compliment you, Senator Roth, Senator Rudman, and Senator D'Amato, for your keen and ongoing interest in the provisions of title 31 and in the effectiveness of our efforts against money laundering.

There is no more vital effort that this Government can make in the struggle against organized crime and drug trafficking in this country.

I would also like to compliment your staff, Mr. Rinzel, and his associates, for the fine work that they are doing in this area. We welcome this inquiry. We think it constitutes an important public service. We have a long history of working with this committee in a partnership between the legislative and executive branches.

Mr. Chairman, we have seen substantial improvements in the operation of the Bank Secrecy Act in the past 4 years. We have expanded our coverage of Bank Secrecy compliance and coverage to casinos; we are about to promulgate regulations in international reporting; we have augmented our Treasury task forces from some two when we began up to 40 today; we have played heavy emphasis on financial investigations in the Organized Crime Drug Enforcement Task Forces. But obviously, as this hearing points out, there is still a great deal to be done.

We welcome any ideas for better enforcement of the Bank Secrecy Act. We welcome all ideas that are generated by these hearings, which I consider, to be, again, extremely timely and extremely important, Mr. Chairman.

Mr. Chairman, the opportunity that you have given us today to appear before you to discuss the compliance of financial institutions with the provisions of the Bank Secrecy Act is most welcomed.

As this subcommittee is aware, the laundering of money through legitimate financial institutions in support of organized criminal activity is both a threat to our financial system and, indeed, a grave challenge to law enforcement.

Since 1980, Treasury has taken a number of steps to improve compliance with the reporting and recordkeeping requirements of the act and its implementing regulations, and that we have made considerable progress is demonstrated by the increase in the numbers of CTR forms filed in this country.

In 1979, 121,000 such forms were filed, but the number increased to about 700,000 last year.

Another measure of our success is the use of reporting information as a law enforcement tool. Treasury's financial investigations, as carried out by task forces across the country, have resulted in the substantial destruction of criminal enterprises engaged in the laundering of proceeds from drug trafficking and other forms of organized crime.

Mr. Chairman, the 18 largest organizations uncovered and destroyed since 1980 have laundered a documented total exceeding $2.8 billion, and this chart which is on my left here indicates precisely that. It indicates the size of the money laundering operations that have been uncovered since 1980, together with the duration of the money laundering operations themselves. And, as the subcommittee can note, the laundering operations—and we are talking about documented totals—range from, in terms of cases that have been completed, 17 million over 18 months in one instance up to as much as $500 million in 3 years in another instance.

With regard to the cases that are still under investigation, $9 million in 3 months up to as high as $300 million over 3 years. It gives you some idea of the magnitude of the money laundering problem we are dealing with in this country. And these are launderers who are laundering money primarily for drug trafficking purposes. They are operating in Florida; they are operating in New York; they are operating elsewhere around the country.

It gives you some idea of the magnitude of the problem we face, and yet, Mr. Chairman, as you know from the volume of drugs that are coming into this country and the huge amounts of money that are being paid for them, this still does not represent the lion's share by any stretch of the imagination. We still have a long way to go.

Mr. Chairman, Treasury believes that much more, as I said, remains to be done in improving the level of compliance with the reporting requirements. I think these hearings have amply pointed that out. We sincerely welcome the ongoing interest this subcommittee has expressed in this vital topic and, of course, look forward to assisting this committee in every way we can in the development of any changes deemed to be necessary.

In my testimony today, I would like to address several topics. First, I would like to discuss the changes made in the Bank Secrecy Act regulatory system in 1980. Second, I would like to briefly summarize action Treasury has taken to assess and improve compliance. In particular, I would like to describe the procedures Treasury followed in 1982 in conducting a survey of compliance by financial institutions in the State of Massachusetts.

I will then describe how criminal investigations are authorized and how today they are supported by the analytical work conducted at the Treasury Financial Law Enforcement Center that we established in 1982. Finally, I would like to bring to the subcommittee's attention current and possible future initiatives to improve the bank examination process.

Turning to changes made by the 1980 amendments to the regulations: prior to 1980, a bank had broad latitude in exempting. In 1980, as a result of indications of massive money laundering activity in the State of Florida, the regulation was tightened. As a result of this change, all transactions with domestic security dealers, exchange dealers and other nonbank financial institutions were required to be reported. The change in the regulations also required reporting of transactions with foreign banks. Treasury took the step of expanding the scope of the reporting requirement to cover transactions with foreign banks and with nonbank financial institutions for two basic reasons.

First, more information was needed concerning flows of currency, both domestically and internationally, in light of indications that the level of international cash transactions related to drug trafficking was increasing.

Second, the information provided by this reporting was needed to help Treasury monitor compliance of the act. By requiring banks to report transactions by nonbank financial institutions, Treasury had a mechanism to check on compliance of those institutions and to make certain that they are filing reports of transactions with their customers.

Another change made by the 1980 regulatory amendments tightened the rules regarding exemption lists. Even prior to the change, banks were authorized to grant an exemption from the requirement to file forms only to an established customer maintaining a deposit relationship with the bank, in amounts that the bank could reasonably conclude were commensurate with and customary for the business of such customer.

Treasury retained this limitation in 1980 but added an additional requirement: That the business be within the United States and be a retail establishment or the type of establishment, such as a bar or restaurant, that could be expected to have substantial cash transactions as a normal part of its business. The regulatory change also required that the bank document the approval of the exemption, specify certain information pertaining to the exemption, maintain the list in an up-to-date form and make the list available to Treasury within 30 days of Treasury's demand.

The need for the changes regarding exemptions was clear. Treasury required more information on the use of exemptions and the customers being exempted to reveal possible relationships with illicit financial activity. Additionally, Treasury wanted to confine use of the exempt list to its intended purpose, the reduction in unnecessary and unproductive reporting.

Our position then, as now, is that most businesses do not routinely deposit large amounts of currency and, hence, should not be exempt from the reporting requirements of the act.

Turning to Treasury's review of compliance by financial institutions, Mr. Chairman, over the last 3 years, Treasury has become aware of particular problems in the level of reporting cash transactions. Even though overall compliance has steadily improved, the currency transaction reporting from some regions of the country is still not commensurate with the level of financial activity that might be expected to take place in such regions.

Accordingly, Treasury has directed particular enforcement attention to such regions in an attempt to bring about compliance improvements. In early 1982, Treasury obtained a statistical summary of the filings of form 4789 during the previous year. That summary showed that banks in Massachusetts, a State that is among the top

States in total bank deposits, had filed only 2,543 currency transaction reports out of a total of 347,882 filed nationwide.

On April 28, 1982, Treasury requested the banks in Boston to submit their exempt lists within 30 days. On May 27, 1982, we requested exempt lists from Massachusetts banks outside of Boston. That same day, my staff in Treasury Enforcement and Operations visited the Federal Reserve Bank in Boston to determine how data on currency and withdrawals could best be obtained. Then, during the week of January 21, one member of my staff, with the assistance of two national bank examiners and two aides from the IRS Criminal Investigations Division in Boston, analyzed every currency deposit and withdrawal made by commercial banks at the Federal Reserve Bank in Boston during the 4-month period from January through April 1982.

From this analysis, we developed a list specifying the total deposits and total withdrawals for the period made by each Massachusetts bank that had dealings with the Federal Reserve Bank. The information on that list was then compared with that obtained from the Treasury Financial Law Enforcement Center, which we call TFLEC. That showed the number and dollar amounts of currency transaction reports filed by the IRS by each bank in Massachusetts during the first part of 1982. This information, coupled with the bank's exempt lists, were used to determine which banks we would select for special compliance reviews by the bank examiners.

Our findings, based on the comparison of CTR's with the amounts of currency turned in to the Federal Reserve Bank and on the exempt list reviews, were of the existence of a generally poor level of compliance in Massachusetts. By September 1982, we had selected 20 banks for special attention. Most noteworthy among these was the Bank of Boston. It has handled hundreds of millions of dollars in currency during the 4-month test period, but it had filed only 59 currency reports.

Our review of its exempt list, forwarded to us under cover of a letter dated June 3, 1982, had prompted a June 8, 1982 letter to the bank to point out numerous companies that did not appear to qualify for exempt status.

Mr. Chairman, this document, I believe, has already been noted as an exhibit in these proceedings, but the letter of September 21, 1982, from my then Deputy, Robert Powis, to Karen J. Wilson, Chief Examiner, Comptroller of the Currency, is the document to which I refer. That document refers to both the descrepancy between the amount of cash we were seeing and the low number of reports we were getting together with the exemption list problem. It also drew specific attention to the problem of the First National Bank of Boston and set forth the problems we saw with that bank, notably that we saw a very low level of compliance with the Bank Secrecy Act there, and that we were concerned that an individual from the bank had informed us that he was not familiar with the provisions of the Bank Secrecy Act or regulations.

We pointed out that we were interested in the transshipments of currency by the bank, both to corresponding banks and internationally. We were very interested, obviously, in this particular bank's being highlighted for investigation at that time and requested feedback from that investigation.

My office in 1982 received a telephone call from an officer in the Bank of Boston's cash division, and he had stated that he was not fully familiar with the reporting requirements, including those covering international bank-to-bank transactions.

As a result of all of this information, in September 1982 we then requested—and this is the letter to which I have referred—that the Comptroller conduct a special examination of the Bank of Boston for compliance. We also made a similar request of the Comptroller and other regulatory agencies with respect to the other 19 banks that we had targeted for special investigation. And at the same time, we made available to the IRS all information pertaining to the Bank of Boston for possible criminal investigation.

Mr. Chairman, I would like to now turn to the question of how Treasury authorizes criminal investigations of suspected Bank Secrecy Act violations.

When Treasury's Office of Enforcement and Operations receives information of significant violations from any source, we refer the information to the IRS so that they may advise us as to whether they believe a full investigation is warranted. That decision is usually initiated in the appropriate IRS district office and then reviewed at higher levels within the IRS. Once we receive an affirmative response from the IRS, we authorize the investigation immediately. If the investigation of a possible violation comes to us in the first instance from IRS instead of one of the bank regulatory agencies, we also review the matter promptly, and we usually respond within one week.

In priority cases, such as the Bank of Boston case, the process is expedited and can be accomplished in one day, as was done in that case.

We believe that a criminal investigation by the IRS of a financial institution should not be undertaken without high-level review and approval. Such investigation, if unwarranted, could unfairly damage public trust in a financial institution and possibly encourage large withdrawals that could imperil the institution's financial condition.

Turning to the operations of Treasury's Financial Law Enforcement Center, Mr. Chairman, I understand that the committee staff has raised a question concerning the timely transmittal of information from the Treasury Financial Law Enforcement Center, or TFLEC, to investigative personnel in the field. We are not aware of any specific problem in the transmittal of such information, but in response to this inquiry, I have asked the Customs Service, who are responsible for managing TFLEC, to resolve any problem that may exist and report back to me on the situation, and we will continue to take action to correct any problem we discover in that regard.

I'd like to point out, however, that Treasury and Customs have recently effected some internal changes designed to enhance TFLEC's operation. Whereas both analytical and investigative responsibilities at TFLEC were in the hands of Customs investigators, the analytical function has now been assumed by Customs' office of Intelligence. This change frees the enforcement personnel involved to concentrate on their investigative functions and should result in an overall improvement in TFLEC's operations, as the Office of Intelligence provides us with the analytical tools which are more properly intelligence functions or matters.

Ensuring compliance with the Bank Secrecy Act and improvements to the examination process is also obviously one of our key goals. Mr. Chairman, the Treasury Department shares a concern with this subcommittee that the current system of ensuring compliance with the Bank Secrecy Act through the financial institution regulatory agencies is in need of improvement. I believe it would be helpful at this point to summarize briefly the history behind the development of the current system for the subcommittee.

As this subcommittee is aware, the legislative history of the act contemplated that the task of examining banks for compliance with reporting requirements would be delegated to the bank supervisory agencies. Accordingly, as early as 1972, Treasury recognized that such a system of delegation could be effective only if certain minimum standards were established for the examination process.

The first step taken toward this goal was the preparation by Treasury and the supervisory agencies of a checklist summarizing the provisions of the Bank Secrecy Act implementing regulations, which first became effective in 1972. In 1973, the basic reporting system under the regulations was adopted by the regulatory agencies. It provides statistics on each agency's compliance activities, including the number of banks examined and number of violations uncovered. At that time, however, there was no specified procedure that supervisory agencies were required to follow in checking for compliance with the reporting provision.

In the mid-1970's, law enforcement agencies discovered widespread noncompliance at a major New York bank, and in response to this finding, Treasury, with the cooperation of the bank supervisory agencies, developed a specific examination procedure. In 1979, it became apparent that despite the new procedure, reporting problems remained. This was particularly obvious to us in Florida.

In recognition of the need for more detailed procedures so that the bank supervisory agencies would have adequate guidance for the examinations they conducted, Treasury and the agencies established new expanded procedures in 1981. These examination procedures are comprehensive and complete, and, in our opinion, if a bank examiner follows the entire set of procedures, there is a high probability that any major incident of noncompliance at a financial institution will be detected. These procedures have been available since 1981 and Treasury has continually urged that they be followed.

From the standpoint of the Office of Enforcement and Operations, it is difficult for Treasury to ensure that the expanded procedures are, in fact, being employed. The supervisory agencies, for example, conduct examinations at field offices spread across the country. There is no current means by which we can gain independent access to the bank records necessary to review a bank's compliance and to assess the effectiveness of the examination process in uncovering compliance problems. This is, however, a problem that Senator D'Amato's bill addresses squarely, and the Treasury fully intends to resolve, and we welcome the opportunity to work with this committee toward that end.

With regard to the general matter of Bank Secrecy Act reporting and measures to prevent money laundering through financial institutions, Treasury met last December with the examination council, on which the various supervisory agencies sit. We discussed with the council the recommendations of the President's Commission on Organized Crime, and we will continue this dialog with the supervisory agencies themselves. The council and the regulatory agencies have agreed to work with us in strengthening the overall system for ensuring Bank Secrecy Act compliance.

In addition, we are seeking to increase the awareness of the banking community of the role of money laundering in facilitating organized crime and the nature of its threat to the integrity of our financial system. For example, we recently met with the American Bankers Association, which has offered to cooperate with Treasury and the supervisory agencies in a program to increase the training of bank managers and personnel in matters pertaining to the act and Treasury's regulations.

Finally, my office is considering regulatory and administrative changes to improve the current system. The area where improvement is clearly called for, as this subcommittee is aware, is in the matter of exemptions from the reporting requirements.

As I have discussed today, our regulations were improved in 1980. Yet, we now have indications that even more vigorous control and analysis of these exemptions is called for. We also consider it critical the legal barriers that inhibit voluntary reporting by bank employees of suspicious transactions be removed. I might say, our review has proceeded to quite some length in analyzing the various administrative and regulatory changes that we think might be appropriate. Of course, we will add to that list for review any ideas or recommendations this subcommittee develops during the course of these hearings.

Mr. Chairman, this concludes my prepared statement. I will be pleased to answer any questions this committee may have.

Chairman ROTH. Mr. Walker, 5 years, I guess, have passed since the new regulations were issued and yet we find, as pointed out a number of times in the morning paper, that any number of major financial institutions are not complying with the regulation. How can we say that there is improvement under those conditions?

Mr. WALKER. I agree with you, there is so much more that obviously has to be done. This case, and the publicity that is attached to it, are pointing out that there is widespread noncompliance with this act. Notwithstanding the fact that we had these regulations in place for 5 years and that the procedures were forwarded to all of the regulatory agencies, in 1981 I believe, by our office. They were to have been fully adopted and signed off by the regulatory agencies in 1981. These procedures, which are dated May 1, 1981, were sent out by the Comptroller and were also sent out by the FDIC and by the Federal Reserve. Yet we are seeing noncompliance.

Chairman ROTH. Is the problem that no one, either in Government or outside of Government, sees these regulations, this law as being particularly important, maybe with the exception of yourself and a few U.S. attorneys? How many years do we have to wait or how can we make it effective?

Mr. WALKER. I think requiring accountability to this committee, such as has been demonstrated, I think, quite responsibly by the Comptroller of the Currency today in this hearing, is a way of getting some results here.

I believe we have been less than successful in our direct agency-to-agency relationships with regulatory agencies in getting them to focus on these procedures.

We were told in 1982 in the *Bank of Boston* case that the expanded procedures were applied there, and we had no reason to disbelieve that, as it was stated in a letter that we received in April of that year. And, indeed, we had every reason to expect it, given the fact we had identified this particular problem with the Massachusetts banks in September 1982.

All I can say is there is some lapse that is going on somewhere in the regulatory agencies between top management, or the people who are responsible for promulgating these procedures, and the examiners who are carrying them out.

Chairman ROTH. You heard the testimony today with respect to the effectivess of the Comptroller's Office in detecting violations of the Bank Secrecy Act. Let me ask you this question. How effective are the other regulatory agencies that are responsible in this area, such as the Federal Reserve, the FDIC, the Home Loan Bank Board, the National Credit Union? Do we have any reason to believe they are doing a better job?

Mr. WALKER. I don't think we have reason to believe they are doing a better job. We do not have a situation that has come to our attention yet which would indicate that they are doing a worse job, and I hope one doesn't appear. But the *Bank of Boston* case has, obviously, brought to the attention the problems with the Comptroller of the Currency.

Chairman ROTH. It seems to me these examination are by rote, pro forma, no digging into facts. That is what bothers me. They have gone through the form, but nothing is learned. At the end of several months, you have a 250-page document based upon an examination by 50 examiners, and I am not saying the whole investigation is of the same quality, but certainly as far as the title 31 is concerned, I don't think there is a Member up here that has any confidence. What bothers me is why isn't there somewhere in Government some followthough? For example, isn't the Comptroller's Office part of Treasury?

Mr. WALKER. It is part of Treasury; yes.

Chairman ROTH. Can Treasury make investigations to determine whether or not these examinations are adequate?

Mr. WALKER. We right now don't have the tools, the administrative tools, to do that. This is one of the welcome developments, I think that would result from Senator D'Amato's bill, which would provide for administrative authority directly to the Treasury Department in the area of the Bank Secrecy Act. We have no ability now to audit, if you will, the Comptroller's examination procedures or the way in which they are carried out.

Also, we don't now have the resources for that, because it was always understood and, indeed, was part of the legislative history of this, that the examination responsibility would be delegated. But

I would frankly hate to think that we would have to be in a position of setting up bureaucracy to audit another bureaucracy.

Chairman **Roth** [interposing]. I was just going to make that comment, the thing that bothers me is when we investigate the Pentagon, they always say they don't have enough people. As far as I can tell, they are falling over each other.

Mr. **Walker**. We are not asking for more people.

Chairman **Roth**. Here the fact remains we talked to two gentlemen who work for the Government—fine gentlemen—but as far as I can tell, there has been no real training program as to what they are expected to do or see or find.

If I understand your testimony, you in 1982, or the Treasury, asked for a special investigation. Yet we find the people who made the special investigation in the Boston area weren't even sure, were not even aware that there was a requirement to file CTR's with respect to currency with foreign banks. To me the whole situation shows a total lack of appropriate enforcement.

Is the problem you have too many agencies, too much turf involved that the Comptroller is more concerned with the financial soundness of a bank and doesn't understand the importance of this; is that the problem?

Mr. **Walker**. That is the only conclusion I can draw. The only conclusion I can draw is that, just as in the banking community itself, the lower levels, if you will, the actual examiners at the regulatory agencies are not as aware as they should be of the importance of the Bank Secrecy Act to the enforcement efforts of this administration and of this Government. There is no more vital tool.

Chairman **Roth**. How do we make them aware of this? Here it is almost April Fool's Day, and what do we do to get implementation? I don't think this is something we should have to wait another 6 years to make some progress. What do we do now to change this whole situation?

Mr. **Walker**. It is going to be a multipronged attack, obviously. I think each one of the heads of the regulatory agencies obviously has to be reminded in no uncertain terms about this. Accountability to this committee is another way.

I think the administrative subpoena provisions of Senator D'Amato's bill will give us the ability to step in and do some auditing here. In this particular instance, we work, in effect, on a dual-track approach. We turned the case over to the Comptroller of the Currency and at the same time informed the IRS of what we were doing so they could start to commence a criminal investigation. Later on, of course, the criminal investigation took over as the IRS became more and more involved, and we suplied more information to them. At that time, the case went to a successful conclusion.

Chairman **Roth**. Let me ask you this question, Mr. Walker. Do you agree the Bank Secrecy Act is a key weapon in fighting organized crime, is that correct, in the drug war?

Mr. **Walker**. Absolutely; 100 percent.

Chairman **Roth**. Now, if that is the case, we can't afford to be dillydallying around. What bothers me is that we will go through these series of hearings and then you think we are going to forget about it—I don't mean you personally; I mean the bureaucracy—

and 6 years later, we will have additional hearings and somebody will say no progress is made.

What can we do now to make every person involved in this area of operation understand the importance of this legislation? I gather that that is not understood.

Mr. Walker. I think that we have to accept that we have people who have achieved high positions in the regulatory agencies who have responsibility for conducting examinations of banks. I mean, that is the key to this on the Government side. We have to continue to work through the regulatory agencies, unless we are going to set up a separate regulatory agency just for title 31, which is not our recommendation.

Chairman Roth. I will be honest with you, I think one of my concerns is we have too many different agencies regulating banks. Maybe we need some consolidation. That is something the committee ought to investigate.

Let me ask you, in the Wall Street Journal article today, it states that 45 banks are seeking amnesty on reporting violations. Is that accurate? Are you going to give them amnesty?

Mr. Walker. No, we certainly are not. We have never indicated that any bank that comes in would receive any kind of amnesty or special consideration. Each case will be considered on the merits, on facts as presented, and we certainly do not intend to grant amnesty or have a voluntary disclosure program which will result in light treatment. So that is very clear.

The other point I would like to make concerns the number of banks as referred to in that article. Mr. Stankey, on my right, contacted the representative of the American Bankers Association after we read that article this morning, because nobody had contacted my office with respect to any request for amnesty, either from the American Bankers Association or from any of the banks to find out how accurate this was. We understood it was not 45 but 4 or 5 banks. So I just wanted to state that on the record. The reporter apparently did not hear the answer correctly.

Chairman Roth. Sounds like a political town. I guess I should also ask you, are you going to grant amnesty to the various regulatory agencies in the conduct of their investigations? I am very serious. I really think the time has come for action and not just talk.

Mr. Walker. I agree with that.

Chairman Roth. Who has the primary responsibility for the enforcement of title 31?

Mr. Walker. The enforcement is in the Office of the Assistant Secretary for Treasury.

Chairman Roth. But it is the Treasury that has principal responsibility?

Mr. Walker. That's right. We have the responsibility under title 31 itself with the understanding that the compliance is to be delegated out to the regulatory agencies. That is the framework that has been established.

Chairman Roth. I would ask you to supply this subcommittee, as soon as possible, some kind of plan of action to get full understanding of enforcement of title 31. It seems to me there is no systematic approach to this, at least when you get into the regulatory agency problem.

You heard two of the gentlemen before us say there is no formal training; there is no real understanding of what it is all about, and until people understand the importance of this, I think we are going to continue to have this same kind of problem. If it is as critically important as you say and other law enforcement officials say that it is with respect to illicit drug activities and organized crime, I think it is time that we really develop a systematic plan that is fully supported by the regulatory agencies. I don't think we have time to wait.

Mr. WALKER. I agree with you.

Chairman ROTH. I want to say as one Senator, I am not nearly as interested in dredging up all the things that happened as I am in seeing corrections and reform now. Where are going from here? Senator Rudman.

Senator RUDMAN. Thank you, Mr. Chairman. I join the chairman in that. Obviously, that is what we are trying to do. Let me say, Mr. Walker, you do a first-rate job in everything you do, and we appreciate your cooperation. I think it is a sorry state of affairs that we have. The chairman has gone over that ground.

You have primary responsibility for the enforcement of title 31 and the Secrecy Act generally, and yet the tools, if you will, to make those investigations don't reside really in your office as much as they reside in the Comptroller's Office.

Mr. WALKER. They don't reside at all in our office.

Senator RUDMAN. The fact is you have got the responsibility, but the Comptroller does the actual work out in the field.

Mr. WALKER. With regard to the national banks; that is correct.

Senator RUDMAN. Of course, there are others who do it with other banks.

Chairman ROTH. Would the Senator yield?

Senator RUDMAN. Sure.

Chairman ROTH. Is that by law or by internal decision of the executive branch?

Mr. WALKER. The delegation?

Chairman ROTH. The delegation.

Mr. WALKER. The law states the Secretary may delegate such responsibility to the appropriate bank supervisory agency or other supervisory agency. I am quoting exactly. The House report on the bill left little doubt as to the House's intent, and I am quoting, "Federal examiners and supervisory agencies are responsible for enforcing compliance by the insured institution and to make certain enforcement machinery in the Federal Deposit Insurance Act would be available to these agencies if needed". Under the implementing regulations that follow that language plus the legislative history, the bank supervisory agencies have been delegated that responsibility completely.

Our office is responsible for the coordination of the efforts of the various agencies that have compliance responsibilities, such as occurred in this particular case, and we provide general oversight for the administration of regulations.

For instance, when the procedures were developed for the Comptroller of the Currency back in 1981, Mr. Stankey worked very closely with all of the regulatory agencies at that time to develop those procedures. We monitor the implementation of the act by getting the reports from regulatory agencies and then we try to be a catalyst in bringing about the necessary changes in enforcement of the act. That is essentially our role at this time.

We don't have any independent power to audit the work of the regulatory agencies, and we have no independent administrative summons power, for instance.

Chairman ROTH. If I understand you, under the law, the enforcement could be retained in Treasury. I am not suggesting that should be done.

Mr. WALKER. Right.

Chairman ROTH. In any event, maybe you ought to review who you delegate that responsibility to based on performance.

Senator RUDMAN. Mr. Walker, let me continue. The line I was following was you have the principal enforcement responsibility, but the fact is the examiners work for the Comptroller and, obviously, if you are looking for financial dealings, whether it is inside dealings, whatever, you are going to have directors loans and improper loans; that is the proper function for the examiners. So the logic obviously is, since they are there, they can enforce the Bank Secrecy Act.

Mr. WALKER. That's correct.

Senator RUDMAN. That is the logic behind it.

Mr. WALKER. That's correct.

Senator RUDMAN. The fact is you mentioned a few moments ago about the appeal of an administrative subpoena, which you don't have now, but the curious thing is, of course, the Comptroller, although independent, does work for the Treasury?

Mr. WALKER. Yes, and he has subpoena authority, too, I believe.

Senator RUDMAN. That is correct, and the Secretary of the Treasury under certain administrative situations could bring pressure to bear on the Comptroller's Office to do the kinds of things that you believe ought to be done?

Mr. WALKER. That's correct.

Senator RUDMAN. I think my only point there is that we have here a situation of an umbrella agency of the Treasury with a lot of responsibilities. It is not unlike Justice or the FBI as a separate agency. There are times the Attorney General has to talk to the Director, and I think there are going to be times, if we are going to get enforcement, that the Secretary is going to have to talk to the Comptroller and others within the Government.

Let me ask you this question: After the 1982 notification of the Comptroller, I take it additional information coming to your attention made you essentially dissatisfied with the conclusion, which is why you set up the test and analysis that you did at the Federal Reserve Bank of Boston; is that correct?

Mr. WALKER. We first got the reports on a nationwide basis by State, for all 50 States, and we saw the relative number of reports that were being filed in every State, and that is what really triggered our effort to get the cash to match up against those reports from the Fed in Boston.

Then, after we developed that information, and we got the exempt list from the various banks, and we turned all that material over to the Comptroller on September 21, it was at that time that the Comptroller really got involved.

Senator **Rudman**. Let me ask you a personal opinion, Mr. Walker, not representing the department, but you have a very distinguished record in this area, and I think your opinion is valuable. I know you can't speak for the Secretary, but let me ask you your opinion. Banks, good corporate citizens, are in the business of loaning money, making money, and they are really not policemen, and they try to be good citizens, but they are really not. I don't think anyone says they ought to be.

The Office of the Comptroller, I guess you could say in their defense, historically they are interested in checking the soundness of banks and all the things bank examiners do to check for soundness. I don't know if they do it well or not well. At least they are out there doing that.

Here you have an act which is really passed not in relation to the historical background of bankers or the Comptroller's Office, essentially this is a law enforcement bill. Plain and simple for the reasons the chairman very aptly stated.

Do you think it might be a good idea because of the nature of this act to place its primary focus someplace else other than in the national bank examiner's group in terms of spot check by some other agency of Government or within Treasury?

Mr. **Walker**. I am tempted to say yes because of the history we have seen, which has been outlined in this committee, and the logical place that has been mentioned when this issue has arisen in the past has been the Internal Revenue Service, which is more of a direct law enforcement agency with a law enforcement function. From wearing a law enforcement hat and without any view toward economies in Government, I would think that that would be an effective tool.

My concerns are that we do have existing agencies in those banks and that we ought to be able to get them to do thorough investigations somehow. I would be wary of any major change unless we were absolutely certain that these regulatory agencies were institutionally incapable of ever fulfilling this responsibility.

Senator **Rudman**. My last question if for Mr. Stankey. Mr. Stankey, do you recall getting that file from the Comptroller's Office?

Mr. **Stankey**. No, Senator, I don't. We were looking for the file and eager to receive it so we could take further action on it as needed to complete our project in Massachusetts.

Senator **Rudman**. And your best recollection is that you never received that file?

Mr. **Stankey**. That is correct. We've done file searches and interviewed everybody in the office, and there is no indication that we received that file.

Senator **Rudman**. With your normal inoffice procedures, when you receive a file from any agency that has law enforcement implications, do you log that in some special way?

Mr. **Stankey**. Ordinarily it would come over addressed to the Assistant Secretary or to his deputy and would have been logged in at that point.

Senator **Rudman**. If it were brought over as an individual part of his workpapers, would it still be logged in in some way if it were left there?

Mr. **Stankey**. I don't recall anyone bringing over part of the workpapers.

Senator **Rudman**. Your best recollection is you never got the file?

Mr. **Stankey**. That's correct, Senator.

Senator **Rudman**. Thank you, Mr. Chairman.

Chairman **Roth**. Senator D'Amato.

Senator **D'Amato**. Thank you, Mr. Chairman. Mr. Chairman, I simply would like to indicate that I think Secretary Walker has done an outstanding job and has been one person just continually moving in this direction of attempting to get implementation of the Bank Secrecy Act, while there have been others who have been, if anything, not only less than enthusiastic but have been at the very least negligent in the discharge of their responsibility.

In this particular case, the First Boston case, his enforcement people led them right to the transactions that were in question. Those same transactions thereafter have been substantiated as being in violation and nothing was done—nothing.

Mr. Walker, let me ask you, if you had subpoena power, would you have then used that administrative subpoena to subpoena those bank records in question?

Mr. **Walker**. I think this would have been an ideal candidate for use of subpoena power. Although we had reservations concerning compliance, we had no ability to check it. We had concerns over what we were getting back from the Comptroller at that time because of the experience we had in south Florida, with the discrepancy between the CTR's and the cash down there. We were seeing exactly the same thing in Boston.

We had the whole history of Florida behind us, in which we produced hundreds of indictments and convictions, resulted in the destruction of many money-laundering operations, as we indicated here earlier, and we saw what we felt was the same or similar pattern developing in Boston. And we got back, in effect, a report, or reports, that there were no violations up there. So this would have been an ideal candidate for selective use of administrative subpoena powers, summons authority to go in ourselves, with a few IRS agents, and do a spotcheck to see what we could find here.

Now, in this case, of course, there was a grand jury panel and, obviously, it functions effectively in the *Bank of Boston* case.

In many instances, we find there is no grand jury action impaneled or the violations are not of sufficient magnitude or of interest to the grand jury to warrant grand jury action, and yet we feel that enforcement action is necessary on the civil side. The use of an administrative summons would be extremely helpful to enable us to gather together the information, the facts, to bring a civil proceeding. Substantial penalites can be obtained, and if your bill is passed into law it will result in even greater civil penalties so that we can proceed on that basis.

Senator **D'Amato**. Let's talk about those civil penalties, if we might. Mr. Chairman, I think it is fair to assume that in the area of law enforcement, without cooperation, whether it is the Securities and Exchange Commission which does an excellent job of enforcement, the various independent bodies within the stock exchange itself, NAS itself. So it has been in the history of law enforcement without those areas of activity, citizen participation, the laws become almost impossible to enforce where you have no financial incentive and, by the way, that is why we put treble damages in for insider trading, for example, to discourage people, to keep honest people honest. But as we look at the present law, violation of the Bank Secrecy Act calls for a penalty of $10,000 on the civil side.

What kind of deterrence is that if you have got someone who is hard pressed and who wants to look the other way who doesn't want to ask the probing questions, who is not that good citizen? But, the act that we have put forth suggests forfeiture of the entire sum.

In the case of the First National Bank of Boston, I wonder how diligent they would have been, or other institutions, where they would have to be liable for all the money in civil penalties they illegally transferred without informing us. I would suggest it would be difficult to believe that six major bank official would have just willy-nilly signed off, the individual who said I don't understand the law, and by the time when called to be questioned about it you still had a difficult time understanding what the law meant, from my point of view, I don't accept it.

Let me suggest to you it is a pretty easy thing to say we didn't realize it, but to continue to say after it is pointed out to you that you have to report that you didn't think you had to report it is nonsense. I don't accept it. I don't know if my colleagues do, but I certainly don't accept it.

I think the bank would have darn well moved quickly to correct that situation if it stood liable to forfeit all of those funds. So, Mr. Walker, let me ask you this: Do you think the results would have been the same had we had 571 on the books as relates to Boston?

Mr. **Walker**. I think if 571 had been on the books with respect to the First National Bank of Boston, they would have had to stood to pay a civil penalty of over $1 billion. I would think that would wake up even the sleepiest of chief executive officers—[laughter]—given the kind of sanctions that would be imposed under those circumstances.

If banks are not aware of the value of the Bank Secrecy Act as a matter of public policy, in attacking organized crime, they certainly would become aware of the Bank Secrecy Act as a potential bottomline item, if you will, if it were enforced in those amounts.

I think that would be a suitable vehicle for getting the kind of compliance that Chairman Roth has referred to here, but I also think steps within the regulatory agencies must be implemented, and I personally am pleased that Todd Conover, Comptroller of the Currency, has come forward with a specific plan for the Comptroller of the Currency and has stated his willingness to not only implement that plan but be accountable to this subcommittee for it.

I would seek as part of the plan—I have been thinking about it a little bit as the hearing has proceeded—that a similar approach would be appropriate for the other regulatory agencies in the near future, but we will be working with your committee as we go forward on that score.

Chairman **Roth**. The afternoon is drawing on, so I want to call these to a halt. Mr. Rinzel would first like to ask a question.

Mr. RINZEL. Mr. Stankey, regarding your telephone conversation with Daniel Dormer at the First Bank of Boston in July 1982, we have exhibit 11 which has been introduced, a memorandum of that conversation. Could you tell us what your recollection, as best you can, is about that conversation?

Mr. STANKEY. My best recollection of the conversation is that on July 12, Mr. Dormer called me and identified himself as being in charge of the cash division of the Bank of Boston, which to me meant the main cash vault and handling the large shipments of currency. He asked some questions about reporting currency transactions, and I think that during that conversation we covered the international shipments to banks as well as shipments to domestic banks. He apparently was under the impression that they could be put on the exempt list or didn't have to be reported.

Mr. RINZEL. Did you tell him that that wasn't true?

Mr. STANKEY. My best recollection is I told him that they definitely had to be reported.

Mr. RINZEL. Did you ever get, in response to the request that you had sent to the Comptroller's Office, or the Assistant Secretary had sent to the Comptroller's Office, did you ever get any feedback from the Comptroller's Office with respect to the Massachusetts bank situation on any of the Massachusetts banks you pointed out may be in noncompliance?

Mr. STANKEY. The only feedback that I can recall is the memo that was submitted which indicated that they found substantial compliance after using expanded procedures, and so forth. We received no further feedback, although we looked for it.

Apparently, it was their intention to include additional information in their quarterly reports. Although we didn't receive feedback on the First National Bank of Boston, we had every intention to continue to press them until we did or until the IRS initiated a criminal investigation because there wasn't any doubt in my mind that there were violations at the First National Bank of Boston, and that they should be identified and reported back to us one way or another.

Mr. RINZEL. Those are all the questions I have, Mr. Chairman.

Chairman ROTH. In closing the session, I just want to reemphasize, I think there is a lot of work to be done on both sides of the street on the part of financial institutions. I would hope through these hearings and the articles that have appeared in the press, that no bank nor any other financial institutions can say they are no longer aware of the problem.

Mr. WALKER. I couldn't agree with you more, Mr. Chairman.

Chairman ROTH. At the same time, I think the same thing is true of the executive branch of Government. I think the time has come where those agencies responsible for enforcement had better begin examining their own enforcement proceedings. As I said, we are going to ask the General Accounting Office to make a report, and we will be looking forward to working with you, Mr. Walker, in seeing that appropriate new procedures are established.

Mr. **Walker**. Absolutely. Thank you very much, Mr. Chairman.

Chairman **Roth**. Thank you. The subcommittee is in recess.

[Senators present at the close of the hearing: Senators Roth and Rudman.]

[Whereupon, at 4:45 p.m., the subcommittee adjourned.]

APPENDIX

PREPARED STATEMENT OF SENATOR WILLIAM V. ROTH, JR.

On February 7, 1985 the First National Bank of Boston, one of our nation's largest banks, pled guilty to a felony information charging they failed to file appropriate forms on $1.2 billion in international currency transactions in violation of the Bank Secrecy Act. What has followed has been an unceasing barrage of charges, counter-charges, contradictory statements and other general misinformation. What the public has known about this case has depended not only on which paper they have read, but on which particular day they read it.

We are here today to try to discover several things. First, we want to have a factual accounting as to how a bank the size and prestige of the First of Boston could find itself in this situation. Secondly, we need to explore, to the degree possible, how pervasive this type of non-compliance is. Frankly, I wish we could have held this hearing earlier. At least perhaps we could have prevented some of the unfortunate leaks that have occurred in this case. In fact, I find it reprehensible and the height of irresponsibility that such things as the Treasury list of 9 Massachusetts banks has been made available to the press. As we will see today, this list has little significance as to whether or not the banks named are actually in non-compliance with the Bank Secrecy Act. Yet, I am afraid, the banks on that list have had their reputations damaged apparently for the sake of headlines.

We also want to find out why the enforcement agencies, specifically the Comptroller's Office, have failed to detect and report violations during their regular bank examinations. Finally, we want to know what changes may be necessary in the law or regulations to insure compliance.

In 1983, the Permanent Subcommittee on Investigations held extensive hearings on offshore banking and the use of offshore facilities to launder illegal funds. There have been many developments in this area since our hearings. I will not dwell on these here as they will be detailed in the Subcommittee's final report on this subject to be issued soon. Though our previous work has concentrated on the offshore aspect of money laundering, we are intimately aware of the domestic problems as well. The two cannot be separated.

I want to commend Senator Rudman, our Vice Chairman, for initially bringing the Bank of Boston issue to the attention of the Subcommittee. Senator Rudman was an active participant in our offshore bank investigations and immediately realized the significance of the Bank of Boston's noncompliance and recommended that we get the complete facts.

There is no question in our minds that the Bank Secrecy Act is an indispensible link in the prosecution chain of major crimes; particularly those involving organized crime, drug traffickers and major frauds. We, on this Subcommittee, have seen the ravages of these crimes that take the life savings from some and even the lives of others. And we have seen that the Act is one of the most effective tools in the arsenal of U.S. prosecutors. Therefore, we do not take the Bank Secrecy Act lightly. Nor do we consider it a technical regulation to be enforced in an agency's spare time or between other more pressing matters. We are going to hear testimony today that unfortunately indicates to us that our view of the importance of the Bank Secrecy Act is perhaps not as widely shared as it should be--either within the government or in the private sector.

Now many people have asked how the First of Boston could find itself in its current situation. I will tell you how. They did not take the Act seriously, either as a corporation or as individuals within the corporation. They ignored it. They may as well have thrown the Comptrollers' notices, the law, and the regulations in the trash.

And the bank examiners--where were they? They were in the bank. They were even sent back to the Bank of Boston by the Treasury Department to specifically check on Bank Secrecy Act compliance. They were even told where to check and what to check.

I can understand that fifty bank examiners with primary concerns of bank solvency spending weeks in a bank the size of the First of Boston could perhaps not deem it important to spend a great deal of time on the Bank Secrecy Act. But how could they miss a violation of the size and scope of this one when they were told specifically where and what the violation was? The answer to that question is what we seek today.

This is not the first time that bank regulatory agencies have been called to task for the lack of adequate enforcement of the Bank Secrecy Act. In 1977, during the Carter Administration, hearings before the House Committee on Government Operations revealed that the bank regulatory agency examiners had failed to detect reporting violations at the Chemical Bank of New York prior to the prosecution in that case. In 1979, the Treasury Department conceded to the House Banking Committee that there were very few referrals by the banking regulatory agencies. In 1980, at hearings before the Senate Banking Committee the enforcement efforts of the banking regulatory agencies were described as "dismal" and "lackadaisical". And a 1981 GAO report found that the compliance monitoring of the bank regulatory agencies was inadequate, cursory or nonexistent.

As to the question of how widespread this total disregard--this almost scornfull disregard of the Bank Secrecy Act is... I hesitate to ask the question. What we know already indicates the problem is probably pandemic. In Boston alone, three financial institutions have been prosecuted, a fourth is under investigation, and I understand a fifth is receiving close attention by federal prosecutors.

We thought our investigators should take some time while in Boston to discuss Bank Secrecy Act compliance with another major bank, the Shawmut Bank of Boston. After we served a subpoena for records on the Shawmut Bank on March 1, 1985, to our utter dismay, we found that the Shawmut had not filed Currency Transaction Reports on almost $200 million of international currency transactions covering the past five years. We have not been able to pursue the Shawmut situation in-depth, but we will hear what their President has to tell us today. I will say this about the Shawmut Bank. It is to their credit that they took the initiative, shortly after the First of Boston plea, to determine whether or not they were in compliance with Title 31. When they discovered they had not filed, they informed both the Comptroller and the Treasury Department. They did this several days before our initial contact with them. Moreover, they cooperated fully in our investigation as did the Bank of Boston.

Yesterday, the Wall Street Journal reported that the Bank of New England, the second largest bank in Boston, had failed to file reports on several international currency transactions. Thus, Boston's three largest banks have failed to comply with this provision of the Bank Secrecy Act.

But we are not here simply to point accusing fingers at two or three banks. This is, as I have said, not a new problem. The First Bank of Boston did not invent non-compliance with the Bank Secrecy Act. Twenty-eight banks have been prosecuted for Title 31 violations since 1976, according to a list provided to us by the IRS. That list begins with the Chemical Bank and ends with the First National Bank of Boston, two of our country's largest banks. At present, IRS has 188 ongoing Title 31 investigations encompassing 41 banks. Fifty-three of these 188 cases are in the Northeast United States. An additional 81 cases are with various U.S. Attorneys awaiting prosecution decisions. These are very disturbing statistics, more so because of the types of banks represented.

I consider the epidemic of drug abuse to be one of the most serious problems confronting this country. We could lose an entire generation of youth to the drug problem. I have said it before—money laundering is the glue that holds all this together. We cannot tolerate our major banks providing the vessel for that glue by ignoring the provisions of the Bank Secrecy Act. This is society's problem, not just law enforcement's. Banks can no longer hide behind the assertion that they are not law enforcement agencies. Banks are part of this society, and as such they have a responsibility to assist in this battle. While I do not believe in burying banks in massive regulations, I do not think it is too much to ask that they follow simple instructions. I do not think it is too much to ask that they inquire when customers are bringing grocery bags full of small bills through the front door.

So, what do we do now? Do we look at more banks in Boston? Do we begin to turn over the rocks nationwide? I do not condone Shawmut's neglect of the Bank Secrecy Act, but it took guts for them to jump into the middle of this storm. I wonder how many banks with related problems may be out there, lying low?

Suffice it to say that this story is not over. If our country's biggest banks are blithely ignoring the Bank Secrecy Act, then we have an untenable situation. I think we need to know the answer to that question, so I directed my staff that by March 25—that is a week and a half from now, they are to begin contacting a number of banks across the United States, including some of our largest multinational institutions to determine the status of their compliance.

I am also requesting that the General Accounting Office examine the Bank Secrecy Act regulatory process in detail. I have asked that they scrutinize all agencies with oversight responsibility for the Act. If there are systemic problems it is time we addressed and resolved them.

Before we begin with our witnesses today, I would like to introduce the IRS statistics into the record. I am also introducing a chronology of events prepared by the staff which highlights the major events in the First National Bank of Boston saga as well as other documents relevant to this investigation.

PREPARED STATEMENT OF SENATOR ALFONSE D'AMATO

CHAIRMAN ROTH, VICE CHAIRMAN RUDMAN, IT IS A PLEASURE TO BE HERE TODAY TO TESTIFY ON LEGISLATION I HAVE INTRODUCED TO COMBAT MONEY LAUNDERING AND TO STRENGTHEN ENFORCEMENT OF THE BANK SECRECY ACT. I WANT TO THANK YOU FOR THE OPPORTUNITY TO JOIN YOU IN ASKING QUESTIONS OF THE OTHER WITNESSES AFTER MAKING THIS OPENING STATEMENT. I ALSO WANT TO THANK DAN RINZEL AND PAUL BARBADORO OF YOUR STAFF FOR THEIR HELP AND COOPERATION.

IN MY OPINION, WE NEED A COMPREHENSIVE 5-POINT PROGRAM TO CORRECT THE MOST SERIOUS WEAKNESSES IN OUR LAWS AGAINST MONEY LAUNDERING. THE FIRST OF THESE POINTS IS EMBODIED IN MY BILL, S. 571, WHICH GRANTS THE TREASURY DEPARTMENT AN ADMINISTRATIVE SUBPOENA POWER TO INVESTIGATE BANK SECRECY ACT VIOLATIONS.

MY INTEREST IN THIS LEGISLATION DATES BACK TO THE START OF OPERATION GREENBACK IN 1980. THE LINK BETWEEN MONEY LAUNDERING AND NARCOTICS TRAFFICKING HAS BEEN EXPLORED IN A SERIES OF HEARINGS I HAVE HELD IN NEW YORK ON THE RELATED PROBLEMS OF DRUG TRAFFICKING AND VIOLENT CRIME.

ON JANUARY 28 OF THIS YEAR, FOR EXAMPLE, I HELD A HEARING OF THE SENATE BANKING COMMITTEE ON THE SUBJECT OF MONEY LAUNDERING, IN WHICH MY BILL WAS ENDORSED BY ONE OF YOUR WITNESSES TODAY, ASSISTANT SECRETARY OF THE TREASURY JOHN WALKER, AS WELL AS BY COMMISSIONER OF CUSTOMS WILLIAM VON RAAB, AND THE COUNSEL TO THE PRESIDENT'S COMMISSION ON ORGANIZED CRIME, JAMES HARMON.

TEN DAYS LATER, BOSTON'S LARGEST BANK, THE BANK OF BOSTON, PLED GUILTY TO A FELONY VIOLATION OF THE BANK SECRECY ACT. THIS CASE HAS CAPTURED THE ATTENTION OF THE PUBLIC TO AN UNPRECEDENTED EXTENT. HOPEFULLY, THIS HEARING WILL CHANNEL PUBLIC INTEREST IN THIS CASE IN A POSITIVE AND CONSTRUCTIVE WAY.

NOR IS THE BANK OF BOSTON THE ONLY MAJOR BANK WHOSE VIOLATIONS OF THE BANK SECRECY ACT HAVE RECENTLY COME TO LIGHT. ON SATURDAY, WE LEARNED THAT BOSTON'S SECOND LARGEST BANK, THE SHAWMUT BANK, HAS FAILED TO REPORT MORE THAN $190 MILLION IN LARGE CASH TRANSACTIONS WITH FOREIGN BANKS OVER THE PAST 5 YEARS, AND HAS IMPROPERLY EXEMPTED 28 CUSTOMERS FROM FEDERAL CURRENCY-REPORTING RULES.

SHAWMUT BANK INFORMED THE COMPTROLLER'S OFFICE AND TREASURY DEPARTMENT OF THESE VIOLATIONS ON FEBRUARY 19. THIS CASE HAS NOW BEEN REFERRED TO THE INTERNAL REVENUE SERVICE FOR FURTHER INVESTIGATION.

THIS NEW DEVELOPMENT MAY WELL BE THE FIRST IN A SERIES OF DEVELOPMENTS GROWING OUT OF THE BANK OF BOSTON CASE. THE SHAWMUT BANK HAS STATED THAT ITS VIOLATIONS WERE UNCOVERED BY AN INTERNAL BANK INVESTIGATION INITIATED BECAUSE OF THAT CASE.

YESTERDAY, WE LEARNED THAT BOSTON'S THIRD LARGEST BANK, THE BANK OF NEW ENGLAND, HAS UNCOVERED TWO SETS OF UNREPORTED CASH TRANSACTIONS.

WHILE THE BANK OF BOSTON HAS NOT BEEN CHARGED WITH MONEY LAUNDERING PER SE, ONE OF THE MAIN PURPOSES OF THE LAW THE BANK HAS VIOLATED IS TO COMBAT DRUG MONEY LAUNDERING. THE DOCUMENTED FAILURES AND VIOLATIONS IN THIS CASE DEMONSTRATE THE NEED TO BEGIN A COMPREHENSIVE CAMPAIGN TO PREVENT A REPEAT OF WHAT HAPPENED IN BOSTON.

WE MUST HAVE LEGISLATION TO GIVE THE TREASURY DEPARTMENT AN ADMINISTRATIVE SUBPOENA POWER TO INVESTIGATE BANK SECRECY ACT VIOLATIONS, AND WE MUST INCREASE PENALTIES FOR VIOLATIONS OF THE ACT.

IF S. 571 HAD BEEN LAW IN 1982, WHEN THIS CASE FIRST CAME TO THE TREASURY'S ATTENTION, TREASURY AGENTS COULD HAVE BEEN SENT IN TO INVESTIGATE THE BANK OF BOSTON AS EARLY AS 1982. HAD THAT BEEN DONE, MANY OF THE SERIOUS DELAYS THAT HAVE PLAGUED THIS CASE COULD HAVE BEEN AVOIDED.

NOR DO I THINK PRESENT PENALTIES ARE ADEQUATE. AGAIN, IF S. 571, WHICH SUBJECTS VIOLATORS TO FINES UP TO THE FULL AMOUNT OF THE ILLEGAL TRANSACTION, HAD BEEN LAW IN 1980, THE BANK OF BOSTON WOULD ALMOST CERTAINLY HAVE BEEN MORE ALERT TO THE SERIOUSNESS OF THE NEW REGULATIONS ISSUED THAT YEAR.

MY SECOND BILL, S. 572, EMBODIES MY SECOND PROPOSAL. IT CREATES A NEW CRIME OF MONEY LAUNDERING WHEN THERE IS AN INTENT TO PROMOTE CRIMINAL ACTIVITY, OR WHERE THERE IS KNOWLEDGE OR REASON TO KNOW THAT MONEY MOVING THROUGH A FINANCIAL INSTITUTION IS THE PROCEEDS OF CRIMINAL ACTIVITY. THE OBJECTS OF THIS BILL ARE NOT THE INNOCENT BANK TELLERS OR BRANCH MANAGERS, BUT THE CORRUPT BANK OFFICERS AND THE KINGPINS OF THE DRUG ORGANIZATIONS AND OTHER MAJOR CRIMINAL GROUPS IN THIS COUNTRY.

IF WE ARE SERIOUS ABOUT MONEY LAUNDERING, WE MUST SAY SO IN TERMS THAT ALL BANK EMPLOYEES, FROM TELLERS TO BANK CHAIRMEN, CAN UNDERSTAND. WE MUST MAKE MONEY LAUNDERING A CRIME.

MY THIRD RECOMMENDATION RELATES DIRECTLY TO AN ISSUE THAT THIS SUBCOMMITTEE HAS MADE THE SUBJECT OF A VERY EXTENSIVE STUDY. WE MUST OBTAIN INCREASED COOPERATION FROM OFFSHORE AND OTHER FOREIGN BANK SECRECY HAVENS LIKE SWITZERLAND AND PANAMA.

I SUGGEST THAT WE CONTACT THE CHAIRMEN OF THE SWISS BANKS THAT HAD DEALINGS WITH THE BANK OF BOSTON AND THE DIRECTOR OF THE SWISS BANKING COMMISSION TO SEEK THEIR COOPERATION IN TRYING TO DETERMINE WHETHER ANY OF THE MORE THAN $1.2 BILLION THE BANK FAILED TO REPORT PROPERLY WAS DRUG (OR OTHERWISE TAINTED) MONEY. I SUGGEST THAT WE PURSUE THE FOREIGN TRAILS IN THE SHAWMUT BANK AND THE BANK OF NEW ENGLAND CASES AS WELL.

THESE CASES DEMONSTRATE THE NEED FOR A FULL AND VERY SERIOUS REVIEW OF WHAT COOPERATION WE ARE GETTING FROM BANK SECRECY HAVEN AND OTHER FOREIGN COUNTRIES. I REFER NOT ONLY TO THE SWISS, NOT ONLY TO THE OTHER BANK SECRECY HAVENS, SUCH AS THE BAHAMAS, PANAMA, AND HONG KONG, BUT TO ALL COUNTRIES WHERE MONEY IS BEING LAUNDERED TO AID AND ABET THE DRUG TRAFFICKING AND OTHER DANGEROUS CRIMES BEING COMMITTED IN THIS COUNTRY.

LAST THURSDAY, I OBTAINED A COMMITMENT FROM THE CHAIRMAN OF THE FOREIGN OPERATIONS SUBCOMMITTEE, SENATOR KASTEN, TO HOLD HEARINGS ON THIS QUESTION.

MY FOURTH POINT IS THAT THERE IS AN URGENT NEED FOR A MUCH IMPROVED PERFORMANCE IN THE AREA OF BANK SECRECY ACT COMPLIANCE BY FEDERAL REGULATORY AGENCIES, SUCH AS THE COMPTROLLER OF THE CURRENCY, DURING THEIR ANNUAL EXAMINATIONS. WE SHOULD NOT HAVE TO RELY ON A BANK'S COMING FORWARD ON ITS OWN TO VOLUNTEER INFORMATION ABOUT ITS OWN VIOLATIONS. FEDERAL AGENCIES MUST DEVELOP THE ABILITY TO UNCOVER SUCH VIOLATIONS TO PREVENT THE LAUNDERING OF HUNDREDS OF MILLIONS OF DOLLARS.

FINALLY, BOTH AMERICAN BANKS AND FOREIGN BANKS DOING BUSINESS IN THIS COUNTRY HAVE A RESPONSIBILITY TO DEVELOP SUFFICIENT INTERNAL PROCEDURES THAT GUARANTEE THEIR COMPLIANCE WITH AMERICAN LAW.

I LOOK FORWARD TO ASKING THE REPRESENTATIVES OF THE BANK OF BOSTON AND THE SHAWMUT BANK WHAT NEW COMPLIANCE PROCEDURES THEY HAVE IMPLEMENTED, AND I WOULD SUGGEST THAT THE CONGRESS NOT LIMIT ITS EXAMINATION TO AMERICAN INSTITUTIONS, BUT RATHER, EXTEND ITS INQUIRY TO ALL FOREIGN FINANCIAL INSTITUTIONS OPERATING IN THIS COUNTRY.

AGAIN, THANK YOU FOR THE OPPORTUNITY TO APPEAR HERE TODAY. I LOOK FORWARD TO WORKING WITH YOU VERY CLOSELY IN IMPROVING ENFORCEMENT OF THE BANK SECRECY ACT AND OTHER LAWS THAT COMBAT MONEY LAUNDERING.

PREPARED STATEMENT OF WILLIAM F. WELD, U.S. ATTORNEY, MASSACHUSETTS

I appreciate the opportunity to appear before the Subcommittee today to discuss criminal enforcement of the Bank Secrecy Act, Title 31 of the U.S. Code, from the point of view of a prosecutor in the field.

The importance of Title 31 to federal prosecutors

As the Subcommittee is aware, Title 31 of the U.S. Code and related regulations require the filing of three types of reports which Congress has found to have a high degree of usefulness in investigations of narcotics trafficking, organized crime, and public corruption.

First, they require that financial institutions report to the Internal Revenue Service (IRS) any currency transaction in excess of $10,000. This is done via a Currency Transaction Report, or "CTR."

Second, they require that individuals or couriers report to the U.S. Customs Service the transportation of more than $10,000 in cash across U.S. borders. This is done via a Currency or Monetary Instrument Report, or "CMIR."

Third, individuals must report to the IRS any foreign bank account having a balance of more than $5,000. This is done via a Foreign Bank Account Report, or "FBAR."

These forms are extremely helpful to government investigators seeking evidence of narcotics trafficking, corruption, and organized crime, which all involve and depend on the movement of large amounts of cash. While there have been relatively few criminal prosecutions for violation of Title 31, the statute is still significant for prosecutors, because it is "used" every time a CTR or CMIR or FBAR is introduced in evidence in a federal criminal trial. This is an everyday occurrence in federal court. For example, CTR's filed routinely by a local bank can provide critical corroborating evidence years later, when prosecutors seek to reconstruct a paper trail of cash. This form of evidence is particularly helpful in so-called "historical" narcotics conspiracy cases, and in prosecutions for tax evasion.

If a CTR for a large cash transaction is not filed, for whatever reason, federal prosecutors and investigators could be missing important evidence if the cash transaction was associated in some way with a crime. Hence, failures in bank compliance with Title 31 are of critical importance to U.S. prosecutors, no matter what the reason for such failures.

For a prosecutor in the field there are a number of ways in which Title 31 investigations may bear fruit. First, they may lead to criminal charges against financial institutions, which will presumably have a deterrent effect in the banking community and thereby raise the level of compliance with Title 31. Second, CTR's and CMIR's and FBAR's which have been filed may either suggest a new investigative "lead" or may corroborate other evidence against a suspected offender. Third, prosecutors may find leads or corroborative evidence in the names of individuals and businesses which regularly deal in cash and are exempted by the bank from filing CTR's for large cash deposits and withdrawals.

The Massachusetts Financial Investigative Task Force

In 1982, both myself and the chief attorney of the Boston Organized Crime Strike Force, Jeremiah T. O'Sullivan, felt there was a need for a financial investigative task force in the District of Massachusetts. We reached this conclusion partly because Boston was a large financial center, and partly on the basis of Mr. O'Sullivan's experience with organized crime investigations in the District. Also in 1982, two federal prosecutors with experience in money laundering investigations transferred to the District of Massachusetts. One was an Assistant U.S. Attorney from San Francisco, who joined the U.S. Attorney's office in Boston, and the other was a Justice Department Special Attorney with Operation Greenback in South Florida, who joined the Organized Crime Strike Force in Boston. These two attorneys, together with Special Agents of the Internal Revenue Service and U.S. Customs Service, were informally designated by Mr. O'Sullivan and myself in December, 1982, as the Massachusetts "Financial Investigative Task Force." The purpose of the Financial Investigative Task Force was to concentrate on Title 31 investigations and prosecutions.

In December, 1982, we sent to Washington a letter requesting CTR, CMIR, and FBAR printout information for use by the Financial Investigations Task Force (FITF). In response to that letter, certain printouts were received in the spring of 1983, several prosecutors from the U.S. Attorney's office and Boston Organized Crime Strike Force, and FITF agents, met to pool intelligence concerning various financial institutions in the Boston area, so as to assist FITF agents in obtaining authorization to investigate various banks for Title 31 violations. The sources of information utilized by these agents and attorneys in compiling the list of target institutions included the following:

1. All intelligence in the possession of the Boston Organized Crime Strike Force and U.S. Attorney's office concerning narcotics trafficking, organized crime, and political corruption in Massachusetts. Much of this intelligence derived from prior prosecutions and investigations involving agencies such as the FBI and DEA, as well as IRS and Customs.

2. Documents and other tangible evidence derived from prior investigations and prosecutions of organized crime, narcotics, and political corruption cases in the District of Massachusetts, both by the U.S. Attorney's office and the Boston Organized Crime Strike Force.

3. A document entitled "Summary of Currency Operations--Mass. Banks/Federal Reserve Bank of Boston/January-April 1982." This was a study prepared by an IRS agent in the latter half of 1982, based on records of the Federal Reserve in Boston and the Internal Revenue Service Center in Ogden, Utah. The summary showed, for each bank, the amount of cash shipped by the Federal Reserve to the bank, the amount of cash shipped by the bank to the Federal Reserve, the number of CTR's filed, and the dollar volume represented by the CTR's. An IRS agent with the FITF in Boston prepared a summary of this schedule.

4. Correspondence between the U.S. Treasury Department and the First National Bank of Boston, which had been turned over by the U.S. Treasury Department to an IRS agent working on the Massachusetts FITF.

5. The CTR, CMIR and FBAR printout information received from the Financial Law Enforcement Center in the Treasury Department, in response to the request letter of December 1982.

Prosecutions of Rockland Trust Co., First National Bank of Boston, and Ausonian Credit Union

On the basis of the above sources of information, the Massachusetts FITF developed a list of banks deemed worthy of Title 31 investigation in the spring of 1983. These included the Rockland Trust Company, which was convicted of a felony violation of Title 31 in the Fall of 1984 in the District of Massachusetts and paid a $50,000 fine; and the First National Bank of Boston, which was convicted of a felony violation of Title 31 in February, 1985 and paid a $500,000 fine.

A Third prosecution by the Massachusetts FITF resulted from an "inservice training" seminar conducted by an FITF attorney and U.S. Customs agent in January, 19 for Massachusetts state banking examiners. Following that seminar, a state bank examiner referred the Ausonian Credit Union, of Boston's North End, to the FITF as a result of certain findings during a February, 1983 audit. The FITF executed a search warrant at the Ausonian Credit Union in May, 1983. The Ausonian Credit Union and two individuals were charged with Title 31 violations in September, 1984. The individuals have been convicted on guilty pleas and the case against the institution is pending.

All three of these cases were prosecuted for the Government by Boston Strike Force Special Attorney Patrick M. Walsh, who had previously worked in Operation Greenback in Miami.

Chronology of the Bank of Boston Investigation

On April 26, 1983, the Massachusetts FITF, through the IRS in Boston, requested authorization for a Title 31 investigation of the First National Bank of Boston. Telephone approval was granted the same day. The request recited that in the first part of 1982, the First National Bank of Boston received $925 million dollars from the Federal Reserve, shipped back only $28 million dollars, and filed 59

CTR's totalling $1.1 million dollars. The request also contained recitals regarding certain companies on the Bank's "exempt list," and concerning the level of Title 31 findings by the Bank's branch office in the North End of Boston.

Massachusetts FITF agents met with personnel of the Office of the Comptroller of the Currency in Boston in late 1982, and early 1983, and learned that the OCC examination of the Bank of Boston in 1982 disclosed no substantial Title 31 compliance problems.

On May 5, 1983, five branches of the First National Bank of Boston were visited by teams of IRS and Customs agents, and various interviews were conducted. From May, 1983 through the summer of 1984, the government sought various records from the Bank relating to Title 31 compliance. In 1984, the government requested documents relating to international cash transactions, and requested an interview with the head of the Bank's Coin and Currency Department. During 1984, the Bank and the government negotiated concerning the scope of production which would be required with respect to various of the government's subpoenas and requests.

On or about October 9, 1984, the bank filed with the Department of the Treasury certain CTR's for international cash transactions for the year 1984. Further submissions of CTR's pertaining to currency transactions with foreign banks were made by the Bank on October 31, 1984, December 24, 1984, and March 7, 1985.

In late 1984, agents and attorneys of the Massachusetts FITF met with local representatives of the Office of the Comptroller of the Currency concerning the international cash transactions conducted by the Bank of Boston.

In January and February 1985, attorneys for the Bank of Boston and attorneys for the government negotiated a plea agreement whereby the Bank pled guilty to a one-count felony information charging the bank with a knowing and willful failure to file Cash Transaction Reports for $1.2 billion of its international cash transactions with nine foreign banks.

Current Status of Massachusetts FITF Investigations

The government's investigation of the circumstances surrounding the failure by the First National Bank of Boston to report its international cash transactions, and its investigation of certain domestic cash transactions, are continuing. The government has reserved the right to bring further prosecutions against the bank or its officers or employees if the evidence discloses that a bank employee knowingly and willfully failed to file CTR forms at the request of a person outside the bank, or with a view toward helping a person outside the bank to engage in an illegal activity.

Criminal investigations of a number of other financial institutions in Massachusetts have been approved or are pending IRS approval. Several of these banks are cooperating with attorneys and agents of the Massachusetts FITF.

The level of compliance by certain additional financial institutions in Massachusetts is under review by the FITF, but we have not yet sought authorization for the participation of IRS agents in formal criminal investigations of those banks.

Possible improvements in criminal enforcement under Title 31, U.S. Code

Certain of our experiences with the Massachusetts FIFT may be relevant to a consideration of regulatory or legislative steps in the area of Title 31 enforcement. These include the following:

1. Showing which must be made before documents can be obtained from the Treasury Financial Law Enforcement Center (TFLEC) in Washington

   It would be of assistance to prosecutors in the field to be able to obtain CTR and CMIR printout information on request to TFLEC in Washington, without having to make a showing to justify release of the documents (which are required to be filed, after all, partly because of their usefulness in criminal investigations).

2. Filing of "exempt lists"

The so-called "exempt lists" maintained by financial institutions can be of substantial use to law enforcement. My understanding is that at present, these lists are maintained by the financial institutions and surrendered to the U.S. Treasury Department in Washington only upon specific request. It would be useful to law enforcement if all of these lists were required to be filed on a periodic basis with the Treasury Department in Washington, or the IRS in Ogden, Utah as deemed appropriate by the Treasury Department.

3. IRS non-disclosure rules

We found our investigative efforts hampered by the non-disclosure requirements of Section 6103 of the Tax Code. For example, not even the IRS special agents working on the Title 31 investigations--let alone the prosecutors--were permitted to review tax returns and other so-called "Title 26" information.

4. Participation by bank regulatory agencies in criminal enforcement

From the point of view of a prosecutor in the field, steps could be taken to strengthen the role of bank regulatory agencies in the criminal enforcement process. While it is only natural for any auditor to want to complete his own investigation before referring a matter for consideration of possible criminal prosecution, there are doubtless cases where an earlier referral by regulatory examiners would assist IRS and Customs special agents, and federal prosecutors, in picking up the trail.

It can be argued that the general objective of bank regulatory examinations should be the financial soundness of the institutions examined, rather than "crime-spotting." The two are hardly mutually exclusive, however. Certainly in the long run an institution where fraud is permitted to continue undetected will not be sound. And, while by no means every reporting violation is a badge of criminal fraud, a strong argument can be made that it is appropriate to charge expert bank examiners clearly with the duty of detecting such violations and reporting them to either criminal investigators of prosecutors.

Steps which could be undertaken relatively easily, to strengthen the participation by bank regulatory agencies in the criminal enforcement process, might include the following:

A. Further training programs for bank examiners, with emphasis on techniques for identifying fraud and other criminal offenses.

B. A standardization of the procedures and forms for referral of criminal cases to local U.S. Attorneys and Organized Crime Strike Forces.

C. The promulgation of uniform regulations requiring financial institutions to report all crimes to law enforcement authorities.

D. Training for examiners and agents as to how to deal with the nondisclosure provisions of the Right to Financial Privacy Act, and even possible amendment of that statute.

E. Circularization of periodic reports by bank regulatory agencies to U.S. Attorneys and Organized Crime Strike Forces, a well as to the Treasury Department in Washington.

PREPARED STATEMENT OF WILLIAM L. BROWN
CHAIRMAN OF THE BOARD, BANK OF BOSTON

Mr. Chairman, Members of the Subcommittee, my name is William L. Brown, and I am the Chairman of the Board and Chief Executive Officer of the Bank of Boston.

I appreciate the opportunity to appear before you today. It is my hope that these hearings will both to clarify the record concerning the Bank's failure to comply with the currency transaction reporting regulations and enable the Congress to correct any deficiencies in the law and its enforcement that our experience may have revealed. It is also my hope that this inquiry will focus public attention on the comprehensive report issued by the President's Commission on Organized Crime. That report should serve as the basis for future legislation as well as for a parallel, cooperative effort by the banking industry to implement its recommendations. Bank of Boston has cooperated fully with the United States Attorney's Office and with this Subcommittee's inquiry, and I pledge that our cooperation will continue.

The Bank of Boston received its charter more than 200 years ago, and since that time it has served the people of New England, the United States and the world in a manner that those of us who are associated with the Bank can point to with pride. We view ourselves as good citizens -- as law-abiding and sensitive to our obligations to our many publics -- our shareholders, customers, employees, and the community at large.

The events of the past several weeks have taught us a painful lesson; they have taught us that we must redouble our efforts to ensure that all our employees and officers, at every level, abide by both the letter and the spirit of the law. We must also recognize that bankers have the moral and ethical obligation to assume greater responsibility for compliance with the law and regulations and for identifying possible illegal activity occurring in their midst. Financial institutions must be willing to take an active role in ensuring that they do not serve as conduits for the proceeds of crime. We abhor organized crime in all its guises and are committed to its eradication.

As Chairman, I take responsibility both for our past failings and for ensuring that no such failings occur again. In order to understand why the Bank failed to comply with the requirements of the Bank Secrecy Act in connection with its international currency shipments and certain of its domestic cash transactions, it is important to understand something of our organization and operation.

International Currency Shipments

For many years large commercial banks have engaged in the business of receiving shipments of currency from foreign banks for their accounts and in shipping currency to those banks. Until the mid-1970s most of those transactions were handled by New York banks, but logistical difficulties at Kennedy Airport led the foreign banks to make alternative arrangements. At that time the Bank of Boston began actively participating in foreign currency shipments, with the vast majority of those shipments involving three large, well-established and reputable Swiss banks.

The international shipments consisted of two separate and unrelated elements: first, shipments to Boston consisting principally of small denomination bills; and second, shipments to foreign banks consisting largely of new $100 bills. The incoming and outgoing shipments were unrelated in date and amount. Although it has been our understanding that the Swiss banks served as central clearinghouses for other European banks, we have no means of knowing the original source of the currency shipped to Boston by the foreign banks or the use to which they put the currency we send to them.

We are sensitive to the concerns expressed by the President's Commission on Organized Crime that the influx of small-denomination bills from tax-haven countries may be indicative of illegal activity. I can only stress that we would not knowingly engage in, or assist others to engage in, money laundering. We have always acted only for the accounts of other institutions; they are our only customers in a closed-loop, bank-to-bank system. Currency shipments are always made or received at their explicit request, not at the instigation of the Bank of Boston.

As the Subcommittee knows, until 1980 shipments of currency to and from foreign banks were exempt from reporting requirements under the Bank Secrecy Act. When the regulations were amended in that year to eliminate the exemption for such shipments, the bank received notification of the change from the Office of the Comptroller of the Currency. The Comptroller's bulletin was sent, as all such bulletins are, to those bank officers with responsibility for the areas affected by the new regulations -- including, through the appropriate channels, to the vice president in charge of the Coin and Currency department, which was responsible for international currency transactions. Unfortunately, that officer, who had only recently been assigned to Coin and Currency, did not pay adequate attention to the new regulations. He assumed that the export declarations that had regularly been going to Customs with the Bank's foreign currency shipments were the forms referred to in the bulletin and that nothing further needed to be done.

In early 1982, our Systems Research department, which is responsible for developing internal procedures for all Bank departments, was asked to prepare a revised "Operations Procedure" for compliance with currency transaction reporting regulations. When a draft of such a procedure was circulated for comment, it was also routed to the Coin and Currency department. This draft of the new procedure, if read carefully, would have alerted the reader to the necessity of reporting foreign currency shipments, but that requirement was not highlighted as a change in the regulations. Neither the head of Coin and Currency nor his superiors focused on the fact that foreign banks were no longer exempt, and no action was taken to comply with this aspect of the regulations.

In April, 1982 the Bank received an inquiry from the Treasury Department concerning the unrelated issue of domestic cash transactions. Thereafter, in June or July, the head of Coin and Currency called a Treasury official to discuss the matter, and during the course of that conversation the question of international shipments arose. The officer understood the Treasury official to say that the filing of a currency transaction report was required only if he were dealing with an individual. Since Coin and Currency did not deal with individuals, the officer assumed that no filing on such transactions was necessary.

In his letter to Congressman Hubbard, the Acting Comptroller has suggested that his representatives spoke with this same officer during the September 1982 examination of the Bank and discussed with him the question of international transactions. We have no way of knowing the source of the Comptroller's statements on this point. I must tell you, however, that our officer has no recollection of such a discussion, and our own internal investigation has uncovered no knowledge of the Bank's having been alerted by the Comptroller to the reporting requirements relating to those transactions. As the Acting Comptroller has informed Senator Proxmire, during their 1982 examination the examiners did not notify the Bank that it was in violation of the international reporting regulations, and no mention of any such violation was included in the report of that examination or any subsequent report.

We do not seek to excuse our failure to file the necessary reports by relying on the absence of notice from the Comptroller. I raise the issue only as a further explanation of why the Bank continued to make foreign currency shipments without filing reports until we were alerted in the summer of 1984 to the fact that we were not in compliance.

By our plea of guilty to violating the Bank Secrecy Act we have acknowledged the seriousness of our failure to report foreign currency shipments, and on a personal note, let me assure you that no one feels worse than I that, because of our mistakes and poor judgment, we found it necessary to enter that plea. It is, nonetheless, important to recognize that the shipments themselves were a routine (and relatively small) aspect of the Bank's business and were regularly reported to Customs. There is no excuse for our having failed to recognize the 1980 change in the regulations and adjust our procedures accordingly but no one connected with the Bank had any intent to conceal the shipments or evade the law.

Domestic Cash Transactions

From 1972, when the first regulations under the Bank Secrecy Act were promulgated, until 1980, when amended regulations were issued, banks had two options in reporting large cash transactions: one, if a transaction involved more than $10,000, the bank was required to file a currency transaction report (CTR); or two, if the customer was one that regularly engaged in such transactions as a lawful part of its business, it could be placed on the "exempt list." In that event no CTR had to be filed, but the list was available on demand to any Treasury Department personnel who wished to know what customers routinely dealt in large amounts of cash.

With the issuance of the 1972 regulations, Bank of Boston immediately took steps to notify its branch personnel of the reporting requirements and the rules for placing customers on the exempt list. During the next eight years, compliance with the reporting regulations was the subject of regular bulletins from the head office to the branches and was discussed at numerous operations meetings. A formal internal Operating Procedure was issued in 1972 and updated in 1977.

In 1980 the regulations on domestic cash transactions were amended in two significant respects: first, the type of customer who could be placed on the exempt list was narrowed to include principally retail-type businesses, and second, exemptions were limited to deposits and withdrawals and could no longer include the purchase of cashier's checks for cash. The Bank notified the branches of the amended regulations and asked them to submit new exempt lists of customers who qualified under the more restrictive standards.

In response to the request for updated exempt lists, the North End Branch sent to the manager of Banking Offices Administration the names of eleven customers, including, among others, a bank, a credit union, and various stores and restaurants. Also on the list, however, were two companies owned by the Angiulo family -- Huntington Realty and Federal Investments -- that did not qualify as "retail" businesses. They had been on the list for some time, having been added when the law permitted their inclusion, but they should not have been retained under the new regulations.

The manager of Banking Offices Administration did not carefully examine the lists submitted by the branches until the spring of 1982, when the Bank received a letter from the Treasury Department asking for a copy of its exempt list. He compiled the branches' submissions into one list, adding to it the customers of the Coin and Currency department, and sent the list to Treasury. Shortly thereafter Treasury returned to him a copy of the list on which certain customers had been marked with an "x" -- denoting a company that did not appear to qualify without additional explanation -- and/or a check mark -- denoting that more information was needed. Both Huntington and Federal were marked with "x's" and check marks.

The Banking Offices manager sent to each branch the names of customers who had been noted by Treasury and asked for additional information. He spoke specifically with the manager of the North End Branch concerning Huntington and Federal. She asked that they be retained on the exempt list because they dealt with "consumers" and because it was not unusual for North End realty companies to collect rent and mortgage payments in cash. The Banking Offices manager questioned whether the companies were retail businesses but agreed to retain them nonetheless.

Without question, that decision represented an exercise of bad judgment; under no interpretation of the 1980 regulations should the two companies have been kept on the exempt list. Nonetheless, our inquiry has revealed absolutely no basis for believing that either the initial placement of the companies on the list or their retention in 1980 and again in 1982 was motivated by any desire for personal gain or other improper purpose. On two or three occasions bank examiners asked to review the lists but did not bring any problems to the attention of the Bank.

In 1982 the Banking Offices manager had essentially final authority over the exempt list and was not required under then-existing procedures to discuss his decisions with his superiors or with the Bank's Law Office. Under our new procedures, before recommending that a customer be placed on the exempt list, a branch manager is required to conduct a background check in order to ensure that the customer meets the standards contained in the regulations; the branch manager's recommendation must then be approved by an officer of the Metropolitan Division of the Bank; and final inclusion on the list can come only after the recommendation has been cleared by the Law Office. Moreover, we are now voluntarily sending our complete exempt list to the Treasury Department every six months.

Ensuring Future Compliance

The Bank has taken a number of other actions as well to ensure continuing compliance with the currency reporting laws. In addition to the immediate remedial measures taken at the time that the violations were discovered, the Bank has embarked on a long-term plan to make certain that the Bank as an institution will comply with both the spirit and the letter of all regulatory reporting requirements.

A special task force that was created in October 1984 expressly for this purpose has almost completed its work on developing a comprehensive compliance program based primarily upon the recommendations of the President's Commission on Organized Crime. Currency transaction reports for domestic and foreign cash transactions will now be reviewed and signed by management in the branches and/or the Coin and Currency Department, and then sent to a central compliance office where they will again be reviewed and, if approved, forwarded to the Internal Revenue Service.

Similarly, as I have already noted, we have improved our centralized procedures for monitoring the list of customers for whom CTRs need not be filed.

We are also taking steps to improve the training of officers and employees at every level of the Bank. Bank personnel from tellers on up will receive ongoing training on the objectives and requirements of the Bank Secrecy Act and supporting regulations. Moreover, tellers, branch managers, and other appropriate Bank personnel will receive instruction on the characteristics of money laundering schemes in an effort to detect any such activities. Our internal auditing program is also being modified to improve compliance efforts.

Perhaps most significant are the measures we are taking to monitor all transactions involving $10,000 or more in cash. We have already implemented a new log system that requires tellers to record information about all large cash transactions. These teller logs are reviewed daily by management in the branches and in Coin and Currency to make certain that all of the required CTRs have been filed and that any exempt transactions are properly processed.

In addition, we are developing the software necessary to change this manual log into a fully computerized system. The computer program will not only enable us to track all cash transactions of $10,000 or more, but it will also enable us to detect multiple transactions for the same account in a single day. Once this system is in operation, tellers will make a computer entry in their teller journal for each transaction. If the transaction involves cash of $10,000 or more, the computer will automatically trigger a command that requires the teller to input certain information concerning the transaction, including whether or not a CTR must be filed. Then at the end of each day, the computer will print out a branch settlement report which will include a "CTR Recap" of all cash transactions of $10,000 or more. This report, and the large cash transactions in particular, will then be reviewed by the appropriate management personnel.

So that these procedures can be implemented properly and all future regulatory changes put into effect, the Bank is creating a network of compliance officers at the various levels of the Bank, including branches, affiliate banks, and Edge Act offices. An individual in the appropriate corporate staff department will be ultimately responsible for monitoring compliance with the Bank Secrecy Act and will serve as the central repository for all currency transaction reports for both domestic and foreign transactions.

It is our goal to do everything humanly possible to make certain that the Bank remains in compliance with this and all other applicable laws. We hope that our system will serve as a model for other banks in developing their own reporting compliance programs.

In addition, let me say that the Bank strongly supports legislation along the lines of that proposed by Senator D'Amato, Senator Rudman and others. We believe that it is important to address directly the problem of money laundering in a manner that will allow banks to play a proper role in working with law enforcement officials in attacking potentially illegal activity. If it would be helpful to the Senate, we would appreciate the opportunity to comment on these legislative proposals in greater detail.

Mr. Chairman, I want to close by making one additional point. The relationship between a bank and the government regulators who oversee it is delicate but vital. We at Bank of Boston recognize the importance of strict adherence to the laws and regulations that govern the conduct of our business and our relations with our depositors. Yet, we recognize too that we cannot rely solely on the regulatory process to monitor our compliance with those requirements. We are ready to work closely with the government to develop new procedures to prevent the misuse of the banking system, but we understand that the principal responsibility to ensure that such misuse does not occur is ours. I and the dedicated, hard-working employees of the Bank of Boston are committed to achieving that goal.

The Bank of Boston has always been a responsible and respected leader among financial institutions. Our decades of service have earned us the public's trust both at home and abroad.

We have worked hard to gain this outstanding reputation, and I can assure you that we will do all in our power to make certain that it is maintained.

PREPARED STATEMENT OF JOHN P. HAMILL, PRESIDENT, SHAWMUT CORPORATION, AND EXECUTIVE VICE PRESIDENT, SHAWMUT BANK OF BOSTON, N.A.

Mr. Chairman, members of the Subcommittee, I am President of Shawmut Corporation and Executive Vice President of the Shawmut Bank of Boston. The bank has 29 branches, all of which are located in the Boston area. Shawmut provides financial services principally to individuals and local and regional businesses.

On February 19, 1985, we advised the Comptroller and the Treasury that from the period 1980 to early 1985 we had failed to file CTRs for transactions with a number of our customers. This lapse in reporting occurred despite a good faith effort by the Bank to comply with the CTR requirements. When we discovered deficiencies in our reporting through an intensive internal review last month, we brought those deficiencies to the attention of the Treasury and the Comptroller at the earliest opportunity.

Since the internal review of the Bank's compliance procedures commenced last month, we have taken a number of specific steps to improve the level of our compliance with the CTR requirements. Attached to my testimony is a copy of a recent memorandum from our Legal Department to all branch managers and the manager of our Currency Department setting forth our current detailed procedures for compliance with those requirements. The memorandum includes an application form that must be completed and approved by our Legal Department before any customer can be placed on the Bank's exempt list. We have stepped up our training programs to make sure that these improved procedures will be followed diligently in every section of the Bank in which currency transactions may take place.

I want to describe briefly how we discovered our reporting deficiencies, and how those deficiencies came about. We commenced our internal review on February 7, 1985. The principal focus of the review was the CTR exempt list maintained by the Bank.

We concluded that the Bank had inadvertently continued to treat certain customers as exempt which, after the 1980 amendments to the Treasury Department regulations, it was not authorized to exempt without specific Treasury authorization. These customers included 7 foreign banks which had long standing relationships with Shawmut and 20 well-known local institutions and other companies. The list includes churches, cultural organizations, educational institutions and scheduled airlines.

At that point, we met with the Treasury Department and the Office of the Comptroller at the earliest possible date, February 19, 1985. In these meetings, and in their follow-up, we presented the conclusions of our internal review and submitted CTRs for foreign bank transactions back to 1980. Exemption applications for the 20 customers of the Bank eligible for such an exemption have been filed.

Our review confirmed that Shawmut made a serious effort to comply with the Bank Secrecy Act. As I will describe, this is not a case where no one at the Bank saw the 1980 regulations when they were issued. In fact, the branch division of the Bank received them and applied them diligently, if not perfectly. The branch division filed over 800 CTRs from 1980 through 1984. The Bank's Currency Department did not see the 1980 regulations.

The deficiencies in Shawmut's compliance resulted from human error. The background of these deficiencies lies in the history of how the CTR compliance requirements were integrated into the Bank's operations from the commencement of the CTR program in 1972. The branch division is the main point of contact with both consumers and commercial customers in the Boston area. The Currency Department, which is separate from the branch division, deals principally with domestic and foreign banks and local institutions, including educational institutions and scheduled airlines.

In 1972, when the Bank Secrecy Act became effective, transactions with foreign banks were exempt, as were transactions in the "customary conduct" of a customer's business. These exemptions basically meant that all customers with whom the Currency Department had currency transactions were exempt from the reporting requirements.

The 1980 amendments removed the general exemption for foreign bank transactions and limited the domestic customer exemption. When the 1980 changes became effective, they were routed to the branch division, which for the previous 8 years had been the area of the Bank which dealt with the Bank Secrecy Act. From that time forward the branch division complied with the amended regulations through regular updating of the exempt lists and periodic reminders of the importance of full CTR compliance. The Currency Department, unfortunately, never received a copy of the change in the regulations. It continued to operate as it had for the previous 8 years.

In 1983, the Currency Department began to assume some responsibility for large deposits from branch customers. As a result, the Currency Department began to maintain its list of the customers that it did business with and continued to believe that these customers were exempt from currency transaction reporting requirements. These lists were filed with the Bank's branch division so that all such lists would be in one place for regulatory inspection.

When we commenced our internal review, we found that Shawmut's exempt list would satisfy the requirements of the CTR regulations, with the exception of the 7 foreign banks and the 20 domestic customers that had in good faith been put on the list. The domestic customers that Shawmut was erroneously treating as exempt included:

- 9 educational, religious and health organizations and scheduled airlines; and
- 11 commercial firms located in eastern Massachusetts.

As I have indicated, all cash transactions with these 20 customers have been normal for the conduct of the customers' business activities. As allowed by Treasury regulation, Shawmut has now applied for specific permission to exempt these customers.

The foreign banks that Shawmut treated as exempt are also all long-standing customers of the Bank. The vast majority of transactions with these customers consisted of deposits. In turn, Shawmut transferred funds by wire to accounts maintained by the foreign banks at other U.S. banks.

The foreign banks in this group included 1 in Spain, 2 in Portugal, 1 in Ireland and 4 in Canada (including 1 not on the exempt list). All are long-term customers of the Bank -- some for as many as 50 years and none less than 20 years. Deposits of currency from foreign banks from 1980 to 1985 totalled $157.2 million; withdrawals totalled $33.9 million.

- In the case of the banks in Spain and Portugal, $78.2 million was received in deposits over the five-year period, with the average deposit at approximately $258,000. No currency was sent to the Spanish or Portuguese banks.
- In the case of a bank in Ireland, approximately $327,000 in currency deposits were received over the five-year period, and in the same period $327,000 in coins was sent for use in making change at a duty-free shop at Shannon Airport.
- In the case of the Canadian banks, approximately $78.8 million in currency deposits were received over the period, for an average of approximately $74,000. The Bank sent $28.6 million in currency over the same period, principally to serve tourist demand, and, in several instances, to provide exchange for Canadian naval personnel about to call at American ports.

- o In addition, a single currency transaction took place in 1983 with a Swiss bank that has been a long-time customer of the Bank. Shawmut was asked to send $5 million in currency to the foreign bank. The Swiss bank had wired funds to Shawmut for the transfer. No currency was deposited with Shawmut in connection with this transaction.

We have now determined that there is another area where reports should have been filed. This involves our purchases and sales of foreign currency. Shawmut purchases Canadian currency, primarily from the Federal Reserve Bank, with lesser amounts from correspondent banks and other customers, which it then sells to a Canadian bank. Shawmut also purchases and sells foreign currency from and to domestic banks and currency exchange companies. Reports of these transactions are being prepared to be filed with the Treasury Department to the extent required.

In conclusion, Mr. Chairman, we should have done better, and we regret that we did not. Shawmut has always sought to be fully cooperative with the Office of the Comptroller and the Treasury Department with regard to the enforcement of the CTR requirements. We have never sought to withhold or delay the giving of any information with regard to the requirements as we understood them. We believe that our currency transaction reporting compliance program is now fully up to date, and we will make every effort to keep it that way in the years ahead. We stand ready to cooperate with your Subcommittee, with the Treasury and with the Comptroller in any way appropriate.

Shawmut Bank

C. Keefe Hurley, Jr.
Senior Vice President and
General Counsel

February 25, 1985

TO: Branch Managers
Manager, Currency Department

FROM: C. Keefe Hurley, Jr.,
Senior Vice President
and General Counsel

SUBJECT: Currency Transaction Reporting
(Bank Secrecy Act)

Recent developments in the enforcement of the currency transaction reporting requirements of the Bank Secrecy Act serve as a timely reminder of the importance of careful compliance with these requirements in the branch banks and the Currency Department.[1] This memorandum provides an update of these requirements and sets forth revised procedures for compliance with them.

Purpose of Currency Transaction Reports

Many individuals and organizations engaged in criminal activity use financial institutions to conceal the proceeds of those activities. The Form 4789 Currency Transaction Reports ("CTRs") described below are used by law enforcement agencies in criminal, tax and regulatory proceedings. It is the responsibility of all branch personnel to be familiar with the CTR filing requirements. In addition, branch personnel should be alert to and report to the Branch Manager any instances in which it appears that attempts are being made to use the Bank's services to "launder" currency. Situations that could give rise to such concerns include:

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[1] In the remainder of this memorandum, references to Branch Managers or branch personnel will also be deemed to include the Currency Department and its manager and personnel.

Shawmut Bank of Boston, N.A. One Federal Street, Boston, Massachusetts 02211, Telephone: 617-292-3346

- A customer engaging in numerous cash transactions in amounts just below the $10,000 threshhold for completion of CTRs;
- A individual customer who makes large cash deposits or withdrawals when the business of that individual or his corporation is not of a type known to generate substantial amounts of cash;
- Corporate accounts whose transactions are dominated by cash rather than by other forms of payment commonly used in commercial transactions, such as checks, loan proceeds, letters of credit, or banker's acceptances.

Currency Transaction Reports

Unless the transaction is a deposit or withdrawal[1] within the customer's limit on the Bank's current exempt list, the Branch Manager or Assistant Manager must complete and file a Form 4789 (copy attached) for each and every deposit, withdrawal, exchange of currency, purchase or cashing of cashier's checks or other payment or transfer, by, through, or to the Bank, which involves a transaction in currency of more than $10,000. Multiple transactions by or for any person which on any one day total more than $10,000 should be treated as a single transaction. Within fifteen days of the transaction, the form must be sent to: Internal Revenue Service, Ogden, UT 84201. A copy must be sent to Branch Administration where it is required to be retained for five years. There are federal criminal and civil penalties for violations of these requirements.

Exempted Transactions

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[1] Unless the customer is a government entity or a domestic bank, the fact that a customer is on a current exempt list affects only the reporting of deposits or withdrawals within the specified customary limits; all other transactions in currency in excess of $10,000 (e.g., the purchase or cashing of cashier's checks or exchange of currency) must be reported for these current exempt list customers.

The Bank has authority to exempt from the Form 4789 filing requirements specific size and type transactions with certain customers if (i) the amounts sought to be exempted are reasonable and customary in the course of the customer's business or activities, and (ii) the transactions fall within the limits for that customer on the Bank's current exemption list.

The following are the only transactions and customers that the Bank has authority to place on its CTR exempt list:

(1) transactions with domestic banking institutions, i.e., banks, trust companies, savings bank, savings and loan associations and credit unions (no exemption is granted for foreign banks);

(2) deposits or withdrawals of currency from an existing account by an established depositor who is a U.S. resident and who --

(a) is primarily engaged in the U.S. in the retail business of providing goods (not services) to ultimate consumers for which it is paid substantially in cash (wholesalers and automobile, boat and airplane dealerships are not included); or

(b) operates a sports arena, race track, amusement park, bar, restaurant, hotel, licensed check cashing service, vending machine company, or theater;

(3) deposits or withdrawals, exchanges of currency, or other payments and transfers by local or state governments or by the Federal government or any of its agencies or instrumentalities;

(4) withdrawals for payroll purposes from an existing account by an established depositor who is a U.S. resident and who operates a firm that regularly withdraws more than $10,000 to pay employees in currency;

(5) transactions with Federal Reserve Banks or Federal Home Loan Banks.

Maintenance of Exempt List

The placement of a customer on the Bank's exempt list is the joint responsibility of the Branch Manager and the Legal Department. A transaction with a customer may be considered exempt from reporting only after the Branch Manager has completed all of the following steps:

(1) determined that the transactions sought to be exempted satisfy at least one of the criteria in paragraphs (1) through (5) above;

(2) determined that the transaction dollar amounts and frequency do not exceed what would be considered normal for the size and nature of the customer's business;

(3) completed the attached Application form and forwarded it to the Legal Department for its review;

(4) received from Legal Department written confirmation that the exemption has been approved.

Until the exemption application has been approved, all currency transactions with the customer over $10,000 must be reported. Similarly, even after the customer has been approved to appear on the exempt list, any currency transaction that exceeds the deposit or withdrawal amounts specified on the list as customary for that customer, or that does not come within the pattern of the customary conduct of the customer's lawful domestic business, must be reported. The Legal Department will verify that the list is current on a yearly basis.

The Legal Department will maintain a centralized copy of the exemption list. For each customer, the list must contain current information in the following format:

Name:
Address:
Line of Business:
Account Number(s):
Maximum customary deposit:
Maximum customary withdrawal:
TIN:

APPLICATION FOR CURRENCY TRANSACTION REPORTING (FORM 4789) EXEMPTION

This document must be completed by the Branch Manager or, in the case of the Bank's Currency Department, by the Manager of that Department, for any transactions which are sought to be exempted from currency transaction reporting requirements. The document must then be submitted to the Legal Department for approval. No exemption is effective until this document has been returned approved by the Legal Department.

I. Customer and Amounts Sought To Be Exempted

a. Customer Name ____

b. Customer Address ____________________________________

____

c. Customer Social Security
Number or T.I.N. __________________________

d. Customer Account Number ________________________

e. Amount of Currency Transactions
Commensurate With Customary Conduct of the Lawful
Domestic Business of the Customer

Withdrawals Up To ____________________

Deposits Up To ____________________

II. Customer's Line of Business

A. Banking Institutions

Currency transactions of those customers who are within one of the categories listed below are exempted from currency transaction reporting if they also satisfy the requirements sought by the applicable questions on pages 6 and 7.

If the customer described in Section I comes within any of the categories listed below, place a check mark next to that category.

i. Federal Reserve Bank ____________

ii. Federal Home Loan Bank ____________

iii. United States branch or office of a domestic bank (bank, trust company, savings & loan association, credit union) ____________

iv. United States branch or office of a foreign bank (but not any foreign bank office outside the United States) ____________

If you checked any of the above categories you need not consider the questions on pages 3 through 5 of this document, and may proceed directly to page 6.

B. Customers Other Than Banking Institutions

(i) United States resident

a. Is the customer a United States resident?

_______ Yes   _______ No

b. What is your basis for concluding that the customer is a United States resident?

Driver's License ____   Incorporation Papers ____

Passport ____   Other ________________

(ii) Line of business

Check the line of business which applies to this customer.

a. Sports arena ________________

b. Race track ________________

c. Amusement park ________________

d. Bar ________________

e. Restaurant ________________

f. Hotel ____________________

g. Check cashing service licensed by state or local governments ____________________

Name of Licensing Agency ________________________

License No. (or attach copy of documentation verifying fact customer is duly licensed) ________________________

h. Vending machine company ____________________

i. Theatre ____________________

j. Retail Business primarily engaged in providing goods to ultimate consumers and for which the business is paid in substantial portion by currency (but excluding automobile, boat, or airplane dealerships) ____________________

k. Local Government (e.g., City of Boston) ____________________

l. State Government (e.g., Commonwealth of Massachusetts, State of Rhode Island) ____________________

m. United States, or any of its agencies or instrumentalities (e.g., Department of Defense) ____________________

n. Operator of a firm that regularly withdraws more than $10,000 in order to pay its employees in currency for payroll purposes (only withdrawal exemption available) ____________________

- If you checked "j" (Retail Business) please answer the following questions.

What is the customer's business? ______________________

What goods does the customer sell? ______________________

Are the goods provided directly to the consumer?

___ Yes ___ No

Is this business a type of business which is paid in substantial part by currency?

___ Yes ___ No

- If you checked "n" (Withdrawals for Payroll Purposes), please answer the following questions.

What is the customer's business?______________________

What caused you to conclude that the customer's business uses regular cash withdrawals in excess of $10,000 in order to pay its employees in currency (for payroll purposes)? ______________________

____

How long has the customer been making such withdrawals?

____

III. Customary Nature of Established Customer's Transactions

A. Government Customers

This part should be completed only if the customer is a state or local government, the United States or any United States agency or instrumentality.

(i) Are the transactions sought to be exempted in amounts which are customary?
____ Yes ____ No

(ii) Are the transactions sought to be exempted in amounts which are consistent with the authorized activities of the agency or instrumentality?
____ Yes ____ No

B. Non-Government Customers

This part should be completed for non-government customers.

(i) How long has the customer had this account at your branch? ____________

(ii) Does this customer regularly make deposits?
____ Yes ____ No

(iii) Does this customer regularly make withdrawals?
____ Yes ____ No

Please explain how you determined this customer's customary deposit and withdrawal limits (Item I(e) above). ____

____

____

Are this customer's deposit and withdrawal limits (Item I(e) above) consistent with the customary conduct of the lawful domestic business of this customer?

____ Yes ____ No

Date: ____________________ ______________________________
Branch Manager

Date: ____________________ ______________________________
Currency Department

APPROVED:

Date: ______________ ______________________________
Legal Department

PREPARED STATEMENT OF C. T. CONOVER, COMPTROLLER OF THE CURRENCY

Mr. Chairman, members of the Committee, I am here today to discuss compliance with the reporting provisions of the Bank Secrecy Act. The recent conviction of The First National Bank of Boston (FNBB) for currency transaction reporting violations has raised concerns regarding the implementation of that Act. The Office of the Comptroller of the Currency shares this concern; we have been reviewing the facts of the case to determine what went wrong, and what should be done differently in the future.

Today, I will describe how we carry out our responsibilities regarding the Bank Secrecy Act in the context of our overall examination process. Then I will review the events at FNBB and offer our conclusions regarding these events. Finally, I will discuss what we are doing to improve our efforts to ensure that national banks comply with the Bank Secrecy Act.

THE EXAMINATION PROCESS

The statutory mandate of this Office is to assure that national banks operate both in conformance with safe and sound banking practices and in compliance with the many and varied statutes affecting bank conduct. With regard to the Bank Secrecy Act, Congress has assigned lead responsibility to the Treasury Department. Treasury, in turn, has delegated authority for supervising compliance with the Act to the various federal banking and other supervisory agencies. The Comptroller's Office, therefore, is responsible for supervising the Bank Secrecy Act compliance of 4,700 national banks. Thus, our examination process has included, since the inception of the implementing regulations in 1972, procedures designed to monitor compliance with the Bank Secrecy Act.

Overall Examination Procedures

In carrying out our supervisory responsibilities, our examiners conduct off-site analysis of reported financial data as well as perform periodic on-site examinations. In evaluating the ability of examiners to effectively investigate a bank's compliance in any particular area, it is important to understand the scope and practical limitations of the examination process.

The essential objectives of an examination are: 1) to provide an evaluation of a bank's financial condition; 2) to permit the OCC to appraise the quality of bank management and directors; 3) to identify those areas where corrective action is required to strengthen the financial condition and management of the bank; and 4) to identify and seek corrective action where compliance with applicable laws, rulings, and regulations is inadequate. Procedures utilized to meet these objectives include evaluation of the quality of assets and earnings, the adequacy of capital and liquidity, adherence to laws and regulations, the adequacy of internal control and audit procedures, and the prudence of practices and operations. Literally thousands of steps comprise the OCC's examination procedures. In addition to carrying out the examination procedures, the examiner is expected to make a qualitative analysis of the bank and any trends or conditions that have the potential to weaken the future condition of the bank.

Not all of the procedures are followed in every bank examination. Resource considerations and the sophisticated and complex nature of the banking system require that an examination be tailored to the characteristics and condition of the bank being examined. It is particularly important to direct our efforts to areas that are posing the greatest risk or otherwise causing the greatest concern. We focus on management's and the board of directors' own ability and commitment to ensure behavior that is both prudent and in compliance with the law. This means we emphasize management strategies, controls, and systems. It has been our experience that no amount of examination or supervision works as well as a bank's internal control systems.

Bank Secrecy Act Compliance

The examination procedures regarding Bank Secrecy Act compliance reflect this approach. There are millions of cash transactions in a typical bank office each year. Examiners routinely review few, if any, of these transactions. Rather, they focus more on a bank's own internal control processes.

Our current procedures were developed in 1981 along with the Treasury Department, the Federal Reserve Board and the Federal Deposit Insurance Corporation, following the 1980 amendments to the Bank Secrecy Act regulations and a 1981 Government Accounting Office study on the Act's effectiveness. The procedures employ a two-module approach.

The first module consists of a three-part evaluation of the bank's compliance with the Bank Secrecy Act. The first part is an evaluation of the bank's internal and external audit coverage of Bank Secrecy Act compliance including testing of its effectiveness. The second part is an evaluation of the internal controls that bank management has implemented and is practicing to ensure compliance with the Bank Secrecy Act. The third part is an actual examination of a bank's compliance including a first hand determination of whether the Currency Transaction Reports (CTRs) are correctly filed; the bank's exemption list is reasonable; the bank's relevant operations personnel are sufficiently trained as to the Act's requirements; and whether the cash shipments to and from the Federal Reserve System relative to the CTRs indicate a potential violation of law. As with any examination procedures, the determination of how much of this module is done during a given examination is at the discretion of the Examiner-in-Charge.

If the examiner determines, based on the first module of the examination, that deficiencies exist that may indicate a significant compliance problem, selected procedures from the second module are performed to the extent necessary to determine the exact scope of the problem. This second module involves verification procedures including on-site review of actual transactions for selected time periods. Detailed criteria are provided for selection of tellers and types of transactions to review. Compliance is determined by an elaborate cross-checking and reconciling of transactions, customers, and report forms.

Clearly the process of finding compliance violations through examinations cannot by itself find all problems. In light of the number of banks, branches, and transactions, we need guidance on where to concentrate our resources. One way this occurs is through analyses provided this Office by the Treasury Department which pinpoint institutions that exhibit unusual patterns of currency shipments relative to their CTRs. This approach is not unlike that utilized by the Internal Revenue Service in monitoring compliance with the tax code. Such leads enable more efficient and effective targeting of compliance efforts.

The current examination procedures were developed utilizing techniques proven successful in Operation Greenback in 1980. During this operation involving financial institutions and money launderers in the Southeast, the procedures were instrumental in developing information which resulted in 255 indictments and 109 convictions. Since 1980, Treasury's financial task forces, of which the OCC is often an active participant, have produced over 1300 indictments and over 460 convictions.

THE FIRST NATIONAL BANK OF BOSTON

On February 7, 1985, the Justice Department brought charges against FNBB for failing to report over $1 billion in cash transferred between the bank and various foreign banks. The funds represented more than 1,000 transactions over a four-year period. The reporting requirements that were violated came into effect with the June 1980 amendments to the implementing regulations of the Bank Secrecy Act. These amendments, among other things, eliminated the exemption for international, bank-to-bank shipments of currency.

I am sure it is clear to the Committee, although perhaps not widely recognized, that the violation involves a reporting omission only. The fact that there is a reporting violation does not reflect on whether the activity is legitimate or not. International currency movements are a routine business activity for a number of large banks. FNBB is primarily a wholesale bank with a large international division, and as such maintains correspondent relationships with foreign banks. Shipments of U.S. currency to and from these banks is a normal part of international banking. Shipments of currency to and from domestic correspondent banks is even more common. The $1 billion that constituted FNBB's violation compares to $44 billion in shipments between the bank and its domestic correspondents for the same four-year period.

Bank Secrecy Act Compliance

I would like to review briefly the events, from the vantage point of this Office, related to the investigation of FNBB's compliance with the Bank Secrecy Act. An appendix to this statement provides a more detailed chronology.

Prior to 1982, this Office was not aware of any Bank Secrecy Act problems at FNBB, other than certain technical deficiencies in reporting forms. In the Summer of 1982, the Treasury Department contacted this Office and requested, and received, the assistance of two national bank examiners in tabulating currency receipt and shipment vouchers related to the flow of currency between the Federal Reserve Bank of Boston and commercial banks located in Massachusetts. In September, 1982, the Office was notified by the Treasury Department that this review had indicated that several Massachusetts banks exhibited a large volume of currency activity. Treasury stated that Massachusetts banks generally appeared to have a low level of compliance with the Bank Secrecy Act, and exhibited a lack of understanding of the exemption provisions of the regulations.

Treasury further noted, in particular, that based on a comparison of FNBB's currency transactions with the Federal Reserve Bank of Boston and its CTRs, the bank appeared to have a low level of compliance with the Bank Secrecy Act. According to Treasury, FNBB had purchased $926 million from FRB of Boston during the period January - April 1982. Moreover, Treasury stated, it had learned, during discussions with the bank regarding its exemption list, that the bank officer in charge of currency operations was not "completely familiar" with the provisions of the Bank Secrecy Act regulations.

At this time, the OCC was in the process of conducting a regular examination at FNBB as of September 30, 1982. Treasury was aware of this, and requested that this Office report back with our examination findings regarding Bank Secrecy Act compliance.

Following this request, OCC examiners focused their investigation of FNBB's Bank Secrecy Act compliance specifically on Treasury's concern related to the $926 million purchase of funds by FNBB. The examiners determined that FNBB had a large volume of currency transactions with other domestic banks. Such banks are exempt from Bank Secrecy Act reporting requirements, yet FNBB had failed to include these banks on its exemption list. When the transactions with these banks were considered, the examiners believed that they had substantially reconciled the discrepancy noted by Treasury.

The failure to list the domestic banks on the exemption list was cited in the Report of Examination as a violation of regulation, and a bank official promised corrective action. It is important to note that the volume of funds represented by these domestic shipments were over 95 percent of FNBB's total bank-to-bank currency shipments, including international.

During the examination, a bank official also expressed some confusion as to the reporting requirements for international currency transactions, and confirmed that the bank was in contact with Treasury regarding this issue. We believe that following the completion of this special investigation of FNBB's currency activities, we forwarded the results to Treasury.

In late April, 1983, the Internal Revenue Service began an investigation of FNBB. As is not unusual in these situations, Treasury notified this Office not to examine FNBB for Bank Secrecy Act compliance until the investigation was completed. As the investigation is not yet complete, we have not had an opportunity to follow up on the violation our examiners cited in 1982.

Assessment of OCC Actions

We have drawn several conclusions from our review of these events. First, while we have provided some support to the investigation and conviction of FNBB, we are not satisfied with our performance overall. We have learned that we could have been more effective in applying our procedures, in training our examination staff, and in responding to information from the Treasury Department regarding potential compliance problems in certain banks.

We now recognize that we could have done a more vigorous compliance review during that 1982 examination. The enhanced examination procedures put in place in November 1981 by the banking agencies represented a substantial improvement in our ability to monitor Bank Secrecy Act compliance. However, it has recently become clear that the examiners in FNBB were not familiar with the 1981 procedures and the specific reporting requirements as revised in 1980. It is also clear that while this Office did respond to Treasury's notification of potential problems at FNBB, the attention and follow-up we devoted to the issue were less than sufficient.

These conclusions have led us to also reexamine our actions regarding the other eight banks included in Treasury's initial notification to this Office. We are finding that in many of these banks, the examiners performing the Bank Secrecy Act compliance checks exhibited a similar lack of knowledge regarding the current procedures, and did not give the priority to the Treasury Department information that we would have liked. We view this as an institutional, rather than an individual, failure.

IMPROVEMENTS FOR THE FUTURE

This Office is committed to take steps to improve our training and our internal and external communications to a level that will ensure more effective discharge of our responsibilities under the Bank Secrecy Act. Specifically, we are taking the following steps.

1. Undertake a Thorough Review of OCC's Actions Regarding the Nine Massachusetts Banks

I have ordered a special study of our response to Treasury's September 1982 memorandum regarding Bank Secrecy Act Compliance in Massachusetts. We intend to more definitively identify the shortcomings involved and those steps we can take to remedy them.

2. Ensure Effective Compliance Examinations in Massachusetts

We have undertaken a review of the compliance procedures performed in the Massachusetts banks targeted by the Treasury Department. Teams of examiners from other areas of the country (including the Southeast District where examiners were involved in "Operation Greenback") have been assembled and are currently reviewing the procedures utilized and the examination results. If deficiencies are noted as a result of these reviews, the examiners will conduct on-site visits to properly complete the examination process and ensure thorough reporting of any deficiencies to the Treasury Department.

3. Improve Internal Communications

We are reviewing our efforts in effectively communicating and implementing OCC policies and procedures in the Bank Secrecy Act area. Quality control systems are being implemented to ensure that the current examination procedures are being properly utilized in the examinations. We are reiterating the requirements of the Act and the importance of compliance through Banking and Examining Issuances.

4. Intensify Examiner Training

Training efforts are being stepped up in the Bank Secrecy Act area. We are striving to ensure that all examiners are fully knowledgeable of the Act and its implementing regulations as well as being fully proficient in carrying out the enhanced examination procedures in this area.

Going forward, all newly hired examiners will be required to demonstrate proficiency in this area before they will be eligible for promotion or assigned to examine for Bank Secrecy Act compliance without the supervision of a fully trained examiner. This training will utilize both formal classroom and on-the-job instruction by qualified people in this field.

Regarding training for existing examiners, each District is incorporating training on the Bank Secrecy Act into its regularly scheduled meetings with examiners and District-wide staff training conferences. Also, attendance at the white collar crime school will be required for all senior level national bank examiners. In this school, an expert from the U.S. Customs Department conducts a special session on the Bank Secrecy Act.

5. Continue Efforts to Improve Interagency Cooperation

The new examination procedures adopted in 1981, along with the evolving systems utilized by Treasury to spot anomalies, have the potential to greatly enhance the ability of the federal government to monitor compliance and detect violations of the Bank Secrecy Act. However, steps need to be taken to improve the coordination between this Office and the Treasury Department regarding the analyses of institutions exhibiting anomalous currency movements. Both Treasury and this Office can make this coordination more effective and we stand ready to work with them toward this end.

As another step to coordination and cooperation, this agency has been a major part in a Task Force created by the Attorney General and endorsed by all of the bank regulatory agencies. Many of the proposals of the Task Force will ensure that substantial coordination of efforts will be achieved. Matters of particular importance that will probably be agreed upon include:

- Modification and streamlining of the handling of criminal referrals;

- Legislative proposals to effect the ability to exchange information with the law enforcement community;

- Joint training courses to ensure interaction between investigators and examiners; and

- Establishment, both in the bank regulatory agencies and the law enforcement communities, of points of contact for facilitating resource requests.

The OCC is continuing to communicate to all law enforcement authorities its commitment to assisting them in their investigations involving national banks or their officials. Similarly, the OCC, as a member of the Federal Financial Institutions Examination Council will be working closely with the Treasury Department and the other members of the Council to determine if our methods of combating money laundering can be improved.

6. Strengthen Management Controls Over Implementation of Bank Secrecy Act Responsibilities

The OCC is fully committed to its compliance responsibilities under the Bank Secrecy Act. We are taking steps to ensure that a commitment to carry out our responsibility regarding the Bank Secrecy Act is pervasive throughout the agency. In addition to the increased training, communications, and cooperation described above, we are centralizing responsibility for all information flow and supervision in this area. Also, in each District, Bank Secrecy Act compliance experts are being identified and will head up compliance examination efforts.

In addition to these immediate efforts, we expect that several recommendations for action will result from our internal review. At a minimum, we would expect to identify areas for improvement in our quality control and management information systems.

CONCLUSION

While this Office can look inward and find ways of improving its efforts, it is important to recognize that law enforcement agencies and bank regulators can only provide a small part of the solution. The attitude and self-policing efforts of banks are critical to compliance with the Bank Secrecy Act. No amount of regulatory supervision works as well as a bank's internal control processes.

We also believe that the attention this situation is now receiving has and will continue to have a salutary effect on the industry's compliance efforts. With improved efforts and coordination at the federal level and greater industry awareness, enhanced compliance with the Bank Secrecy Act should be achieved.

APPENDIX TO THE STATEMENT OF
C. T. CONOVER
COMPTROLLER OF THE CURRENCY
Before the
COMMITTEE ON GOVERNMENTAL AFFAIRS
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
March 12, 1985

Chronology of Events

On February 26, 1985, the Office of the Comptroller of the Currency (OCC) provided a letter to several Congressional Committees explaining its preliminary understanding of its actions related to Bank Secrecy Act compliance in the First National Bank of Boston (FNBB). On March 1, a second letter was provided those Committees elucidating one particular point related to the 1982 examination of FNBB.

Subsequent to those letters, OCC has continued its efforts to determine with more specificity what actions were taken by all persons involved. This Appendix recites the information that has resulted from those efforts. As more completely developed, our understanding remains generally consistent with our earlier letters. In some particulars, however, modification of that information is necessary.

1. Much of OCC's recent experience with Bank Secrecy Act ccompliance began with Operation Greenback, a Treasury Department initiative that was formally commenced in 1980. From OCC's perspective, Operation Greenback resulted in the issuance of numerous enforcement actions designed to ensure compliance with the Bank Secrecy Act. In addition, Operation Greenback resulted in the development and implementation of improved regulatory systems to identify areas of possible non-compliance by financial institutions. These developments primarily included the Treasury-approved and FFIEC-adopted procedures issued in November 1981 by the OCC and the improvement of techniques through which the Treasury Department aids OCC in attempting to identify noncomplying institutions.

2. In October 1981 OCC conducted a specialized examination of the First National Bank of Boston. That examination did not use the revised 1981 Bank Secrecy Act procedures because they were not issued until after the relevant portions of the examination had been completed. No violations were cited.

3. During the summer of 1982 the OCC was informed that the Treasury Department was targeting Massachusetts banks for compliance with 31 CFR Part 103, the regulations implementing the Bank Secrecy Act.

4. In April 1982, Treasury Deputy Assistant Secretary (Enforcement) Robert E. Powis requested that all Massachusetts banks forward their exemption lists to him.

5. On June 3, 1982, Mr. Hubert Cox, Manager, Banking Offices Administration, FNBB, forwarded the bank's exemption list to Treasury.

6. On June 8, 1982, Mr. Robert J. Stankey, Senior Adviser, Office of Enforcement and Operations, Department of the Treasury, returned the list to FNBB, stating that he had marked certain of the listed customers who might not belong on it without Treasury approval. Mr. Stankey requested further information from the bank to support inclusion of these customers.

7. During that summer, as part of its Massachusetts enterprise, Treasury requested assistance from the OCC in tabulating currency receipts at the Federal Reserve Bank of Boston relating to the flow of currency in and out of that institution.

8. OCC's Boston Regional Office assigned that task to two Assistant National Bank Examiners, one of whom, Thomas Rollo, this Subcommittee has asked ask to testify.

9. In late June, 1982, these examiners assisted an Internal Revenue Service employee who had been detailed to the Treasury Department in the tabulation of the currency receipts at the Reserve Bank covering the period January through April 1982. In July, the OCC received from the Treasury Department a letter commending the examiners on their diligent efforts which materially contributed to the success of the project.

10. On September 7, 1982, OCC commenced another regularly scheduled examination of FNBB. Another OCC examiner who has been asked by the Subcommittee to testify, Stephen Conners, was the Examiner in Charge at the examination. Assistant Rollo was assigned to conduct the cash program of the examination.

11. On September 21, Deputy Assistant Secretary Powis sent a memorandum to OCC's Chief National Bank Examiner conveying the results of the earlier review of Massachusetts banks' currency shipments to and from the Federal Reserve Bank of Boston, their exemption lists, and Treasury's records of their currency transaction report filings. The memorandum indicated:

a. "[C]ompliance with the reporting requirements of the Bank Secrecy Act by banks in Massachusetts [was] very low."

b. "[N]otable lack of understanding of the exemption provisions in the [Bank Secrecy Act] regulation." The memo also stated that "each exemption list received from the banks required additional contact to perfect the information reported or to require removal from the lists of non-qualifying bank customers", and

c. The number and dollar amount of Currency Transaction Reports filed by banks in Massachusetts during the review period was "not consistent with the large volume of currency" activity between the Federal Reserve Bank and its members.

12. Attached to Mr. Powis' memorandum was a list of nine national banks that "conducted substantial currency transactions with the Federal Reserve Bank of Boston during the period covered by [Treasury's] review (January to June, 1982). The schedule also provides data on the number and dollar volume of Currency Transaction Reports filed by each bank during the same period. . . . All of the data indicate that a special compliance enforcement effort will be required, especially by the Federal agencies that supervise commercial banks, to raise the compliance level."

13. The September 21 memorandum also noted that an examination of FNBB was underway and said: "Our review indicates that the First National Bank of Boston, which appears to purchase the largest amounts of currency from the Federal Reserve Bank of Boston . . . has a very low level of compliance with the Bank Secrecy Act."

14. The memo went on: "The officer in charge of currency operations at that bank, in contacts with my office regarding exemption lists, has informed us that he is not completely familiar with the provisions of the Bank Secrecy Act regulations."

15. Finally, the memo requested "a special feedback report on the 31 CFR Part 103 compliance examination of the First National Bank of Boston" and noted: "We are especially interested in the trans-shipments of currency by the bank to correspondent banks and internationally. The information concerning correspondent activity is needed to assess the compliance of the correspondent banks that do not deal with the Federal Reserve Bank."

16. The September 21 memorandum was sent to Examiner in Charge Conners while the examination at FNBB was still in progress. At the time the memo was received, Assistant Rollo had already completed the cash program procedures of the examination, including the 31 CFR Part 103 procedures. Copies of the memo were also placed in the files of the other eight national banks pending their next regularly scheduled examination.

17. As a result of Treasury's memorandum, EIC Conners brought Assistant Rollo back to the bank to follow up on the concerns that Mr. Powis had articulated.

18. Assistant Rollo reviewed currency activities at FNBB, focusing on the reasons why few currency transaction reports had been filed given the substantial amount of currency the bank was

receiving from the Federal Reserve and sent to its domestic and foreign correspondent banks, its own branches and other customers.

19. Assistant Rollo reconciled the January through April trans-shipments of currency from the Federal Reserve, through FNBB, and on to these customers, with the number of Currency Transaction Reports filed.

20. As a result of this reconciliation, Assistant Rollo reported in an October 8, 1982 memorandum to his supervisors that "[t]he First of Boston is a wholesale operation, selling large amounts of currency to various banks through New England. These amounts substantially account for the discrepancy noted."

21. Based on this determination, Assistant Rollo concluded that the bank was in violation of 31 CFR 103.22 because it had failed to include the names of the domestic banks with which it had engaged in these currency transactions on its exemption list.

22. The October 8 memorandum also reported that Assistant Rollo had been advised by FNBB Vice President and Officer in Charge of Coin and Currency Operations Dan Dormer that Mr. Dormer was "unaware of the regulations concerning international transactions, and as such had not reported them. He stated that all International Currency shipments could be traced over the past four years. This would take approximately three weeks to complete. He has been in contact with a Mr. Stankey Enforcement and Compliance U.S. Treasury Department on this matter." No further actions were taken by the examiners with respect to the international currency shipments.

23. Subsequent memorandum and recollections of OCC staff causes OCC to believe that it provided this memorandum and the supporting work papers to the Treasury Department.

24. On December 8, 1982, Deputy Assistant Secretary Powis sent another memorandum to OCC, indicating that he would like to obtain information about the other eight national banks covered in his September 21 memorandum.

25. On January 4, 1983, OCC's Boston Regional Administrator placed a memorandum in his files reporting that he and Connors had met that day with a representative the U.S. Customs Service to provide the latter with "an update of [OCC's] examination findings in the recently completed First National Bank of Boston." The Customs official informed the Regional Administrator that a task force was being assembled under the direction of the local U.S. Attorney to focus on money laundering through the banking system. The Regional Administrator and Connors provided a briefing on the FNBB exam findings and offered to participate in any organizational meetings for purposes of assisting the task force in developing a strategy. The Regional Administrator also informed the U.S. Customs Service representative that his office would have to consult with the Washington Office to determine what

role they could play in assisting the task force and that he could not provide a copy of the October 8 memorandum from Assistant Rollo until he obtained permission from the Washington office.

26. While a copy of that file memorandum was sent to the Washington office, any request for permission to release the document would have been oral. The Regional Administrator recalls having discussed this matter with the then-Director of the Enforcement and Compliance Division. While current personnel do not recall receiving the call, if one was made the standard practice would have been to request a memorandum of the facts so that authorization could be granted and probably a grand jury subpoena requested.

27. On or about March 7, 1983, a National Bank Examiner in the OCC's Washington Commercial Examination Division who had been assigned the responsibility of preparing a response to Treasury's December 8 request discussed the matter with a Treasury official who identified six of the nine banks as of particular concern, and then contacted the Boston Deputy Regional Administrator to ascertain the status of 31 CFR Part 103 compliance examinations at these banks.

28. In that conversation, information was provided about the scope and timing of the examinations for the six banks. The Washington examiner understood that 31 CFR Part 103 "verification procedures" had been or would be used in performing the examinations of each of the six banks. Such "verification procedures", when used as words of art, refer to a particular, intensive set of auditing procedures set forth in the November 1981 revisions to the examination procedures.

29. As a result of this conversation, a letter was forwarded by the Chief National Bank Examiner to Deputy Assistant Secretary Powis on April 5, 1983, summarizing the status of the OCC's examinations of these six banks, and assuring him that verification procedures had been or would be used in the examinations and that expanded procedures had been used in the others. In addition, the letter stated that the OCC would forward information about violations for any of the Massachusetts banks examined through the regular 31 CFR Part 103 report, which OCC provides to the Treasury Department on a quarterly basis. While the fact that these assurances were included in the April 5 letter was recited in OCC's February 26, 1985, letter to several Congressional Committees, our subsequent internal inquiry has determined that such procedures were not used at any of those banks. The procedures actually used in each of the six banks were selected by the examining personnel on site, based on all of the circumstances involved and with varying degrees of thoroughness. Verification procedures were not used because the examiners assigned to examine these banks never received such instructions from the Boston OCC office.

30. On April 27, 1983, the OCC was officially advised that the IRS was undertaking an investigation of possible criminal violations of 31 CFR Part 103 at FNBB and was instructed to refrain from examining FNBB for compliance with 31 CFR Part 103 to preclude any interference with that investigation. On May 5, 1983, OCC's Washington office acknowledged receipt of that notification and alerted the Boston Regional Administrator.

31. As of this date, any report on the results of OCC's examinations in the five banks other than FNBB has been provided to the Treasury Department only through the regular 31 CFR Part 103 quarterly reports.

32. On May 26, 1983, OCC's Washington office was contacted by Treasury with a request for OCC assistance in conducting a review of certain currency transactions from the Republic of Panama through the Federal Reserve Bank of New York. A large quantity of this currency was said to have reached an Edge Act subsidiary of FNBB's holding company.

33. While OCC initially undertook to provide assistance, it soon became apparent that Treasury wanted OCC personnel to conduct an on-site examination of the Edge Act corporation's currency activities. OCC made plain its willingness to provide off-site assistance to Treasury, but explained that the Federal Reserve Board had primary regulatory jurisdiction over Edge Act corporations and recommended that Treasury seek on-site assistance from that agency. Treasury did not request further assistance from OCC on that matter.

34. In a memorandum dated October 23, 1984, Treasury asked OCC to provide a bank examiner to assist the U.S. Attorney on a fulltime basis as an agent of the grand jury conducting the investigation of FNBB. OCC approved this request in December 1984, and two examiners, one of whom was Assistant Rollo, were made available.

35. The two examiners briefly worked with the grand jury, reviewing FNBB records of international currency shipments and providing information about international banking practices.

36. During OCC's recent review of its handling of the FNBB matter, the staff has had several discussions with the Assistant United States Attorney in charge of the criminal investigation. He informed us that he had been dissatisfied with the level of cooperation he had received from the two examiners. Pending further inquiry into the facts and circumstances surrounding the Assistant United States Attorney's concerns, we did not bring his concerns to the attention of the Committee staffs.

EXHIBIT NO. 1

A CHRONOLOGY OF SIGNIFICANT EVENTS

July 5, 1980	Amendments to Treasury Department regulations concerning large currency transactions take effect.
July 1980	The bank receives notice of the amendments from the Office of the Comptroller of the Currency (OCC). The notice is sent initially to the Bank's CEO (Brown) and referred down to the Vice-President in charge of Coin and Currency (Dormer).
July 1980	The Bank's Retail Banking Vice-President (Colbert) issues a memorandum to the Retail Division describing the changes.
October 1981	The Bank's Systems Research Department receives a request to modify the Bank's procedure for compliance with the large currency transaction reporting laws (Operations Procedure 64).
March 5, 1982	The Bank revises its operating procedure concerning the large currency transaction reporting requirements in response to the October 1981 request.
April 28, 1982	The Treasury Department asks the Bank for a copy of its exempt list.
June 3, 1982	The Bank sends the Treasury Department a copy of its exempt list.
June 8, 1982	The Treasury Department sends the Bank's exempt list back and instructs the Bank to make corrections.
July 12, 1982	The Bank's Vice-President in charge of Coin and Currency (Dormer) calls the Treasury Department (Stankey) and is told that the Bank must file CTR's for large Foreign Bank transactions.

September 1982	Bank examiners from the comptroller's office commence their yearly examination of the bank.
September 21, 1982	The Treasury Department asks the comptroller to examine the Bank to determine whether the Bank is complying with the large currency transaction reporting laws.
On or about October 8, 1982	One of the Bank examiners (Rollo) speaks with the Bank's Vice-President in charge of Coin and Currency (Dormer) concerning the Bank's large currency transactions with Foreign Banks. Rollo doesn't tell Dormer that the Bank is not complying with Title 31.
November 1982	The OCC provides the Bank with a draft of the Bank examiner's report. Only an unrelated Title 31 violation is described in the report.
April 5, 1983	The OCC responds to the Treasury Department's September 21, 1982 letter.
May 1983	The Bank receives a Grand Jury subpoena for its exempt list.
July 1983	The Bank submits a corrected exempt list to the Treasury Department.

EXHIBIT NO. 2

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
V.) Criminal No.
) Violations:
THE FIRST NATIONAL BANK)
OF BOSTON)

INFORMATION

COUNT I: (Currency Violations -- 31 U.S.C. §§1081 and 1059, superceded by 31 U.S.C. §§5313 and 5322(b)).

The United States of America, by William F. Weld, United States Attorney and Jeremiah T. O'Sullivan, Chief Attorney, New England Organized Crime Strike Force, its attorneys, charges:

1) At all times material herein, The First National Bank of Boston, (hereinafter "Bank of Boston") defendant herein, was a financial institution organized under the laws of the United States of America, with its principal office located in Boston, Massachusetts. Bank of Boston was at all times a National Banking Association, and was a "financial institution" as defined in Title 31 U.S.C. Section 5312 (formerly section 1052).

2) At all times material herein, Bank of Boston was required to file with the Internal Revenue Service (hereinafter "IRS"), Currency Transaction Reports (IRS Forms 4789) for transactions of United States currency in excess

of $10,000, in order that the IRS may gather information concerning large cash transactions, for use in criminal, tax and regulatory proceedings.

3) From on or about July 1, 1980 and continuing through on or about September 30, 1984, in the District of Massachusetts, the defendant, Bank of Boston, a banking institution engaged in the business of dealing in currency, knowingly and willfully failed to file, and caused the failure to file, Currency Transaction Reports (IRS Forms 4789) with the Commissioner of the Internal Revenue Service, for currency transactions it engaged in, as required by law, as summarized in Appendix A, attached hereto and incorporated herein.

4) That the defendant Bank of Boston was required to file a Currency Transaction Report for each of the currency transactions set forth in Appendix A below; and wilfully failed to file said Reports, in violation of Title 31, U.S.C., Section 1081 on transactions occurring before September 14, 1982, and in violation of Title 31, U.S.C., Section 5313 for transactions on or after September 14, 1982, and in violation of 31 Code of Federal Regulations, Sections 103.22(a) (1980) and 103.25(1980), which offenses were committed as a part of a pattern of activity involving currency transactions exceeding $100,000.00 within a twelve-month period, to wit:

1980 -	$194,410,422.00
1981 -	$544,721,484.00
1982 -	$269,307,393.00
1983 -	$161,378,672.00
1984 -	$48,864,310.00
TOTAL	$1,218,682,281.00

All in violation of Title 31, U.S.C. Sections 1081 and 1059, and Title 31 U.S.C. Sections 5313 and 5322(b).

Respectfully submitted,

WILLIAM F. WELD
United States Attorney

JEREMIAH T. O'SULLIVAN
Special Attorney

By: Patrick M. Walsh
PATRICK M. WALSH
Special Attorney

DATE: February 7, 1985

NAME OF BANK	1980 NUMBER	1980 AMOUNT	1981 NUMBER	1981 AMOUNT	1982 NUMBER	1982 AMOUNT	1983 NUMBER	1983 AMOUNT	NUMBER
Credit Suisse Bank, Zurich, Switzerland									
Deposits	(7)	10,900,000	(18)	31,100,000	(24)	55,420,000	(3)	5,900,000	
Withdrawals	(11)	63,200,000	(25)	115,500,000	(19)	91,470,000		-	
TOTAL	(18)	$74,100,000	(43)	$146,600,000	(43)	$146,890,000	(3)	$5,900,000	
Swiss Bank Corp. of Basel, Basel, Switzerland									
Deposits	(22)	10,395,600	(49)	50,706,050	(68)	44,702,097	(118)	74,861,702	(92)
Withdrawals	(6)	21,000,000	(21)	54,000,000	(2)	4,000,000	(4)	10,150,000	
TOTAL	(28)	$31,395,600	(70)	$104,706,050	(70)	$48,702,097	(122)	$85,011,702	(92)
Union Bank of Switzerland, Zurich, Switzerland									
Deposits	(25)	7,954,000	(37)	65,720,210	(76)	53,139,161	(69)	56,658,562	(17)
Withdrawals	(15)	76,050,000	(66)	235,300,000	(3)	11,100,000	(1)	6,000,000	
TOTAL	(40)	$84,004,000	(103)	$301,020,210	(79)	$64,239,161	(70)	$62,658,562	(17)
Barclays Bank International, New York, New York									
Deposits	(41)	4,465,077	(92)	11,572,210	(57)	8,347,136	(50)	4,487,720	(49)
Withdrawals	(4)	245,000	(6)	510,000	(1)	50,000		-	
TOTAL	(45)	$4,710,077	(98)	$12,082,210	(58)	$8,397,136	(50)	$4,487,720	(49)
Bank of Boston S.A., Luxembourg									
Deposits		-	(12)	303,214	(15)	478,399	(9)	339,668	(5)
Withdrawals		-		-		-	(1)	88,000	(2)
TOTAL		-	(12)	$303,214	(15)	$478,399	(10)	$427,668	(7)
Bank Leu, Zurich, Switzerland									
Deposits		-		-		-	(4)	2,890,000	(12)
Withdrawals		-		-		-		-	
TOTAL		-		-		-	(4)	$2,890,000	(12)
Die Erste Oesterreichische, Vienna, Austria									
Deposits		-		-		-		-	
Withdrawals		-		-		-		-	(3)
TOTAL		-		-		-		-	(3)
Canadian Imperial Bank of Commerce, Ottawa, Ontario, Canada									
Deposits		-		-		-		-	(1)
Withdrawals		-		-		-		-	
TOTAL		-		-		-		-	(1)
Standard Chartered Bank Limited, New York, New York									
Deposits		-		-		-		-	(1)
Withdrawals		-		-		-		-	
TOTAL		-		-		-		-	(1)

AGGREGATE TOTALS FOR ALL BANKS

NAME OF BANK	1980		1981		1982		1983		1984		TOTAL WITHDRAWALS		TOTAL DEPOSITS	
	NUMBER	AMOUNT	NUMBER	AMOUNT	NUMBER	AMOUNT	NUMBER	AMOUNT	NUMBER	AMOUNT	NUMBER	AMOUNT	NUMBER	AMOUNT
TOTAL DEPOSITS	(95)	33,915,422	(229)	129,511,486	(240)	162,687,331	(253)	105,160,632	(177)	67,904,310				
approx. % in bills less than $100		85%		68%		86%		67%		73%				
approx. % in bills $100 or greater		15%		32%		14%		33%		27%				
TOTAL WITHDRAWALS	(36)	160,095,000	(97)	445,210,000	(25)	107,220,000	(6)	56,210,000	(5)	900,000				
approx. % in bills less than $100		19%		70%		30%		63%		4%				
approx. % in bills $100 or greater		81%		30%		70%		37%		96%				
YEARLY TOTALS	(131)	$194,010,422	(326)	$574,721,486	(265)	$269,907,331	(259)	$161,370,632	(182)	$68,804,310	(170)	$699,141,000	(993)	$520,539,201
GRAND TOTAL													(1,163)	$1,219,682,201

EXHIBIT NO. 3

COMMONWEALTH OF MASSACHUSETTS)
) ss:
COUNTY OF SUFFOLK   )

AFFIDAVIT OF HUBERT W. COX

HUBERT W. COX, having been duly sworn, deposes and says:

1. I am employed by the First National Bank of Boston ("the Bank") at its office at 100 Federal Street, Boston, Massachusetts, 02110. I have been employed by the Bank continuously since 1942 and have worked as a mail messenger, teller's aide, loan bookkeeper, teller, and assistant auditor. In 1974, I moved from the Bank's audit department to my present position as Manager of Banking Offices Administration.

2. Banking Offices Administration is part of the Metropolitan Department (formerly the Retail Banking Department) and is generally responsible for reviewing the operations of the Bank's branches in Suffolk County. My immediate supervisor is P. Dinzey Hall, Vice President of Banking Offices Administration, who in turn reports to Stoddard G. Colbert, First Vice President of Banking Offices Administration. My general responsibilities have been related to the day-to-day operations of the branches in Suffolk County. There are presently 33 such branches.

3. Prior to 1979, my only responsibilities in Banking Offices Administration that related to currency

reporting requirements were generally associated with the periodic reviews that I conducted in the individual branches. One of the items on my review checklist concerned large currency transactions. Specifically, I would determine whether branch personnel were aware of the need to file Currency Transactions Reports ("CTRs"), whether they had CTR forms on hand, and whether CTRs were being filed in appropriate cases.

4. From 1979 through most of 1983, my responsibilities associated with currency reporting were somewhat broader. In general, I would collect the CTRs that were sent in daily by the various branches and then submit them monthly to the Internal Revenue Service. Similarly, during this time period, I also collected the letters from the various branches that identified which accounts were to be exempted from the CTR filing requirement.

5. Because the Comptroller's regulations prior to 1980 described only in general terms the type of customers that could be exempted, I did not substantively review the branches' notifications. Although at times prior to 1980 I marked such letters with my initials and/or words such as "approved," these notations were simply meant as notification to the branches that I had, in fact, received their requests.

6. Based on my knowledge, from at least 1979 through most of 1983, Banking Offices Administration regularly conducted Operations Meetings during which

currency reporting requirements were periodically discussed with representatives from the various branches.

7. Shortly after the Comptroller promulgated the amendments to 31 C.F.R. 103 in the summer of 1980, I was asked by Mr. Colbert to prepare for his signature a memorandum to all the branches summarizing the requirements of the new regulation. That memorandum, which is dated July 3, 1980, included the regulation's new requirement that customers be engaged in a retail business in order to be exempted from the filing of CTRs, and the memorandum stated that exempted transactions were limited to deposits and withdrawals. The memorandum also requested each branch to submit new letters listing those customers who would be exempt under the new regulations from the filing of large currency transaction reports.

8. Among the responses to the memorandum was a letter dated July 29, 1980, from Gloria C. Cushing, Manager of the Bank's North End office. Mrs. Cushing requested that eleven customers, including Huntington Realty Company and Federal Investments, Inc., be placed on the exempt list.

9. In the spring of 1982, the Bank received a letter from Robert E. Powis, Deputy Assistant Secretary of the Department of the Treasury, requesting a report listing those customers whose currency transactions were exempt from the reporting requirements. In response to this letter of April 28, 1982, I submitted a listing of those bank customers whose large currency transactions I believed to be

exempt from reporting. This listing, which was dated June 3, 1982, included both Huntington Realty and Federal Investments.

10. Shortly thereafter, I received a letter dated June 8, 1982, from Robert J. Stankey, Jr., the official in the Treasury Department to whom I had transmitted the Bank's exempt list.

11. In his letter, Mr. Stankey noted that the Bank's exempt list did not meet all of the requirements of the Comptroller's regulations. Specifically, Mr. Stankey returned a copy of our list with two types of notations: check marks were placed next to items that were incorrect or required additional information; in addition, "Xs" were placed next to the names of those customers who did not appear to be of the types of customers who could be exempted without the prior approval of the Treasury Department. The letter further explained that before such approval could be given, further information would be required. There were both check marks and Xs placed next to Huntington Realty and Federal Investments.

12. In order to respond to Mr. Stankey's questions, on June 21, 1982, I sent a memorandum to all the Banking Offices, and also to the Coin and Currency Department. This memorandum enclosed a copy of Mr. Stankey's letter along with the relevant portion of the exempt list for each office. I requested that the offices provide me

with the additional information requested by Mr. Stankey by July 12, 1982.

13. To the best of my recollection, by approximately the end of July 1982, all of the banking offices had responded to my request, but the Coin and Currency Department had not. In particular, the North End branch had provided me with the taxpayer identification numbers that had been missing for both Huntington Realty and Federal Investments.

14. To the best of my recollection, during the summer and/or fall of 1982, I had a couple of conversations with Daniel M. Dormer who was at that time and continues to be the manager of the Coin and Currency Department. As I recall these conversations, we discussed the need for Coin and Currency to respond to the questions raised by Mr. Stankey for the Coin and Currency portion of the exempt list.

15. Because I was waiting to receive this additional information, I did not respond to Mr. Stankey's letter during 1982. However, one of the priorities that I identified on my Performance Planning Worksheet for 1983 that was submitted to my supervisor, Mr. Hall, was the need to complete the revised list of exempt accounts and forward it to Mr. Stankey.

16. I also recall having a telephone conversation at some point in time with Mrs. Cushing about whether

Huntington Realty and Federal Investments qualified as retail businesses that could be maintained on the exempt list.

17. Unfortunately, I do not remember whether this conversation with Mrs. Cushing took place in 1980 after the change in the Comptroller's regulations or whether it occurred in 1982 after the receipt of the Treasury Department's inquiry.

18. Although I am not certain of the date of my conversation with Mrs. Cushing, I do recall its general substance. To the best of my recollection, Mrs. Cushing stated in response to my questions that Huntington Realty owned various rental properties and that the large quantities of cash were the result of rental payments that were made weekly or monthly.

19. Similarly, Mrs. Cushing informed me that Federal Investments was a mortgage company that typically had large cash transactions as a result of mortgage payments that were made in cash.

20. To the best of my recollection, Mrs. Cushing also stated that both companies had been on the exempt list for some time and that it was customary in the North End for people to use cash to pay rent or to make mortgage payments.

21. For all these reasons, Mrs. Cushing told me that she believed that it was appropriate for both Huntington Realty and Federal Investments to remain on the exempt list.

22. At the time of this conversation, I do not recall being totally convinced that Huntington Realty and Federal Investments met the requirements of the Comptroller's regulations, but I nevertheless accepted Mrs. Cushing's position on the theory that both entities were in a sense dealing with ultimate consumers and therefore could perhaps be considered retail operations.

23. In retrospect, I realize that neither Huntington Realty nor Federal Investments in fact meets the criteria established by the Comptroller and that I could have exercised better judgment at the time of my conversation with Mrs. Cushing about whether these two companies should remain on the Bank's exempt list.

Hubert W. Cox
Hubert W. Cox

Sworn and subscribed before me this
9th day of March, 1985.

John M. Harrington Jr.
Notary Public

My Commission Expires: November 14 1986

JOHN M. HARRINGTON, JR., Notary Public
My Commission Expires November 14, 1986

EXHIBIT NO. 4

COMMONWEALTH OF MASSACHUSETTS)
) ss:
COUNTY OF SUFFOLK)

AFFIDAVIT OF STODDARD G. COLBERT

STODDARD G. COLBERT, being duly sworn, deposes and says:

1. I am employed by the First National Bank of Boston (the "Bank") at its office at 100 Federal Street, Boston, Massachusetts 02110. I have been employed by the Bank continuously since 1960. I began as a trainee and became a branch manager in 1965. I began working in Banking Offices Administration as Deputy Branch Administrator in 1971. I have held my present position as First Vice President of Banking Offices Administration and Branch Administrator from 1973 through 1975 and from 1979 to date. From 1976 through 1978, I worked in the International Division of the Bank as marketing liason for Latin America.

2. Banking Offices Administration is responsible for overseeing the operation of all branches of the Bank in Suffolk County, including their compliance with federal currency reporting requirements.

3. When the initial currency reporting regulations were issued by the Treasury Department in 1972, Banking Offices Administration sent a memo to all branches of the bank we supervise explaining the requirements of the new

regulations. This memorandum, dated June 1, 1972, further explained that certain established customers who as a matter of course had large currency transactions could be exempted from currency reporting. The memorandum instructed each branch to prepare and submit a list of such customers.

4. During June 1972, the branches of the Bank submitted their list of exempt customers to Banking Offices Administration. From that point on, the branches continued to submit updated exempt lists to Banking Offices Administration.

5. From 1972 through 1979, various administrative personnel in Banking Offices Administration were responsible for maintaining the file of these lists, for compiling currency transaction reports received from the branches and forwarding them to the Internal Revenue Service, and for overseeing compliance by the branches with currency transaction reporting requirements. In 1979, Hubert W. Cox, a Manager in the Banking Offices Administration department, assumed these duties.

6. During June 1980, I received a copy of new currency reporting regulations which had been issued by the Treasury Department and would become effective in July 1980. I have no present recollection as to who sent them to me. I reviewed the new regulations and concluded that they would affect the operation of our branches.

7. I assigned Mr. Cox to prepare a memorandum summarizing the new regulations for distribution to all branches. I reviewed the memorandum which Mr. Cox prepared, confirmed that it correctly summarized the requirements of the new regulations, and sent it to all branches over my signature on July 3, 1980.

8. In my memorandum to the branches of July 3, 1980, I requested that each branch submit a list of customers exempt from currency reporting requirements under the new regulations.

9. I did not personally review the letters which the branches submitted to Mr. Cox in July 1980. To the best of my recollection, until May 1983, I never personally reviewed the Bank's file of lists of customers exempt from reporting.

10. In late April or early May 1982, I became aware that the Bank had received a letter from the Treasury Department requesting a list of the customers whose currency transactions were exempt from reporting. I asked Mr. Cox to answer this letter. I did not review his reply and did not become aware of any further correspondence between him and the Treasury Department until May 1983.

11. On May 5, 1983, the Bank received a subpoena from the Department of Justice which requested, among other documents, a copy of the list of customers exempted from currency transaction reporting. Shortly after that time, it

came to my attention that the Bank had not yet replied to a letter it had received from the Treasury Department in June 1982 requesting further information on certain customers on our exempt list.

12. During May 1983, I learned for the first time that the North End branch of the Bank had two real estate companies, Huntington Realty Company and Federal Investments, Inc., on its exempt list.

13. During May through July 1983, I participated in a thorough review of the Bank's exempt list and the preparation of a response to the Treasury Department's letter of June 1982.

14. Both Huntington Realty Company and Federal Investments, Inc. were removed from the exempt list during the period between May 1983 and July 1983. I do not remember the details of exactly when and by whom they were removed from this list.

15. To the best of my recollection, I have met with a bank examiner from the Office of the Comptroller of the Currency on only one occasion during the entire period that I have worked in Banking Offices Administration. Some time in the mid-1970's, before I left to go to the International Division, I had a meeting with a bank examiner, by appointment. The examiner asked for and inspected the Banking Offices Administration file of exempt lists received

from branches, and spoke with me about our procedures for compliance with the currency reporting regulations. The examiner raised no problems concerning our exempt list or procedures.

Stoddard G Colbert

Stoddard G. Colbert

Sworn and subscribed before me this

8th day of March, 1985.

Roscoe T

Notary Public

My commision expires:
ROSCOE TRIMMER JR., NOTARY PUBLIC
MY COMMISSION EXPIRES JAN. 20, 1989

EXHIBIT NO. 5

THE FIRST NATIONAL BANK OF BOSTON
INTEROFFICE COMMUNICATION

Operations 80-132

July 3, 1980

To: Officers in Charge, Banking Offices
Tellers in Charge, Teller Branches

Subject: Large Currency Transaction Reports - Operating Procedure No. 64

The Treasury Department has amended the large currency transaction regulation effective July 7, 1980. The pertinent regulations are enumerated below:

A. Exemptions from Reporting
Any transaction in an account which is reasonable with the customary conduct of the lawful business of the customer in the following instances may be exempted:

1. Deposits and withdrawals by a retailer who provides goods to the ultimate consumer and who is paid substantially in currency. This exemption does not include automobile, boat, or airplane dealers.

2. Deposits and withdrawals by operators of sports arenas, race tracks, amusement parks, bars, restaurants, hotels, check cashing services licensed by the state, vending machine companies and theaters.

3. Deposits, withdrawals, exchanges, payments, and transfers by local or state governments or the United States or its agencies.

4. Withdrawals for payroll purposes by an established depositor who is a United States resident and regularly pays employees in cash.

5. Transactions with Federal Reserve Banks, Federal Home Loan Banks, and domestic banks. Reports are required from non-bank financial institutions.

B. Record of Exemptions Granted
A record of each exemption granted must be made which includes the following information:

1. Name and address
2. Type of business
3. Taxpayer identification number
4. Account number
5. Reason for exemption
6. Type of transaction exempt and dollar limit of exemption.

Tellers in Charge, Teller Branches

Large Currency Transaction Reports

The record should also include the names and addresses of domestic banks which have large currency transactions.

Exemptions for Federal Reserve Banks and Federal Home Loan Banks do not need to be recorded.

C. Transaction Reports
All non-exempt transactions, including those with non-bank financial institutions, must be reported. All information called for in the form must be shown.

D. Identification of Customer
All customers must be properly identified in the following manner. The means of identification must be recorded on the transaction report.

1. Verify and record name and address of individual presenting a transaction, as well as identity, account number, and Social Security number for any person or entity whose account is affected.

2. Verify and record identification of aliens or non-residents. Acceptable identification is a passport, alien identification card, or other official document evidencing nationality or residence.

All transaction reports must be completed in accordance with these regulations. In addition, the Regiscope number should be noted in the margin.

Each office should submit new letters listing customers who are exempt from filing large currency transaction reports. These letters should include all the information required in paragraph B, "Record of Exemption Granted," and should be sent to Bert Cox no later than July 1

Stoddard G. Colbert
First Vice President
Banking Offices Administration

EXHIBIT NO. 6

THE FIRST NATIONAL BANK OF BOSTON
INTEROFFICE COMMUNICATION

September 28, 1979

To: Hubert W. Cox, Mgr.
Retail Banking Division
100 Federal Street 18/6

Subject: Request for Exemption from Large Currency Transaction Reports

It is requested thet the following named account be placed on the exempt list for reporting large currency transactions. The depositing of large amounts of cash to this account, in considered to be in the normal course of business.

Federal Investments, Inc.
95-96 Prince Street
Boston, Mass. 02113
A/C #528-2180

Gloria C Cushing
Gloria C. Cushing
Manager
North End Office
Ext. 3208

January 29, 1976

Retail Banking Division
100 Federal Street
10th Floor

Attn: John Dillon

Reporting of Large Currency Transaction

The Following is a list of customers who occasionally make large deposits or withdrawals at this office:

Huntington Realty Co.

(Mrs.) Gloria C. Cushing, LO
North End Office

July 29, 1980

Bert Cox, Manager
Retail Banking Division
HO-10-6

Large Currency Transaction Reports

It is requested that the following accounts be placed on the exempt list for reporting large currency transactions:

Huntington Realty
95 Prince Street
Boston, MA 02113
#534-9666
Real Estate Agency
Heavy Cash Deposits

Federal Investments, Inc.
95-96 Prince Street
Boston, MA 02113
#528-2180
Heavy Cash Deposits

EXHIBIT NO. 7

DATE 7-23-80

TO Tony Rubico
Name and Department

FROM EMT

☐ For your approval and return
☐ For your files
☑ For your information......
☐ Submitted as requested

☐ Return
☑ Do not return

☐ Please return with comme
☐ Please see me regarding th
☐ Please investigate and rep
☐ Please handle

Remarks

AA-756(rev.7/74)

Information/item:
WLB, EMT, PMS, ALM, JFS, TMG,
KRR, RAW

No. 80.50(a)
(Cross-ref. No.
80.50)

BB- 80-18

RECEIVED

BANKING ISSUANCE

Comptroller of the Currency
Administrator of National Banks

Subject: Banking Bulletins

JUL 21 1980

Type: Banking Bulletin

ANS'D ________ BY ________

Subject: Amendments to 31 CFR 103

TO: The Chief Executive Officers of all National Banks, Regional Administrators and All Examining Personnel

Please refer to Banking Bulletin 80-7 dated March 28, 1980.

Enclosed is a copy of the Department of the Treasury's final rule amending certain sections of 31 CFR 103, Financial Recordkeeping and Reporting of Currency and Foreign Transactions. These amendments become effective July 5, 1980.

The major amendments in the revised final rule require: 1) a financial institution to file a currency report 15 days after the transaction occurs instead of the current 45 days; 2) the financial institution must retain a copy of the currency report for a period of 5 years; 3) the filing of a report of transactions with or originated by foreign banks; 4) permits a financial institution to grant an exemption to the reporting requirements only to established depositors who are United States residents and who operate a retail business in the United States. Entities which cannot be exempted are automobile, boat and airplane dealerships. Specifically named entities which can be exempted are sport arenas, race tracks, amusement parks, bars, restaurants, hotels, check cashing services licensed by state or local governments, vending machine companies, theaters, or withdrawals for payroll purposes by a depositor who operates a firm that regularly withdraws more than $10,000 in order to pay its employees. These exemptions may be granted so long as the deposit relationship is maintained by a United States resident. Also exempted are transactions involving local or state governments, or the United States or any of its agencies or instrumentalities: 5) a record and reason thereof of each exemption granted under 4) above must be recorded at the time it is granted and, all exemptions must be maintained on a centralized list.

National Bank management should familiarize themselves with the revised final rule (copy attached), to assure complete compliance with 31 CFR 103. More intensified examination procedures to check for compliance are being implemented by National Bank Examiners. Thank you for your cooperation.

The originating office for this issuance is Office of the Chief National Bank Examiner (202) 447-1574.

RECEIVED

JUL 21 1980

ANS'D ________ BY ________

Paul M Homan

Paul M. Homan
Senior Deputy Comptroller
for Bank Supervision

Date July 1 1980

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 103

Financial Recordkeeping and Reporting of Currency and Foreign Transactions

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule amends the regulations governing the reporting of individual currency transactions in excess of $10,000 (IRS Form 4789, Currency Transaction Report). The amended regulation (1) requires a financial institution to file a report within 15 days after a transaction occurs; (2) requires the institution to retain a copy of the report for 5 years; (3) requires the institution to record more specific information concerning a customer's identity; (4) further limits a bank's authority to exempt transactions from the reporting requirement; and (5) requires a bank to make and retain a record of the authorization of such an exemption.

EFFECTIVE DATE: July 7, 1980.

FOR FURTHER INFORMATION CONTACT: Robert J. Stankey, Jr., Adviser to the Deputy Assistant Secretary (Enforcement), 202-566-5630.

SUPPLEMENTAL INFORMATION: Treasury regulations (31 CFR Part 103) issued under the authority of the Currency and Foreign Transactions Reporting Act (Pub. L. 91-508, Title II, October 26, 1970) require that certain transactions involving currency be reported to the Secretary of the Treasury by financial institutions. A financial institution within the United States generally must file a Currency Transaction Report, IRS Form 4789, for each deposit, withdrawal or exchange of currency or other transaction which involves more than $10,000 in currency. Under current regulations, currency transactions with established customers in amounts which the bank may reasonably conclude do not exceed amounts commensurate with the customary conduct of the business, industry or profession of the customer concerned need not be reported provided that the financial institution makes a report listing such customers to the Secretary upon demand. Certain types of transactions with other financial institutions also need not be reported.

On September 9, 1979, there was published in the Federal Register a notice of proposed rulemaking to revise the regulations to require that (1) the reports be filed more timely; (2) more complete identification of the customer be furnished; (3) the financial institution be required to retain a copy of the report for five years; and (4) the exemption from the reporting requirement for transactions with an established customer maintaining a deposit relationship be limited to retail type businesses in the United States and that the location and character of the business be identified in the report of exempt customers furnished to Treasury. In addition, it was proposed that the exemption from reporting currency transactions with other financial institutions and foreign banks be removed in order to improve the Treasury Department's ability to obtain overall compliance with the regulations and alert the Department to unusual transnational movements of currency. The primary purpose of these changes would be to enhance the Department's capability to monitor and assure compliance with the Currency and Foreign Transactions Reporting Act with regard to possible illegal or improperly reported flows of currency in the United States and abroad.

A total of 46 comments were received on this proposal. The more significant comments are summarized and discussed below.

Discussion of Major Comments

1. Many of the comments stated that no difficulty was anticipated in complying with the revisions. Some banks, while not anticipating any particular difficulty, felt that the proposed revisions were unnecessary, time consuming and costly. The comments indicate that a few banks in large metropolitan centers have a significant number of large transactions in currency. The vast majority of banks, however, do not appear to have a great many unusual currency transactions and, consequently, they will not be greatly affected by the change in reporting date or the information to be supplied.

2. In order to reduce unnecessary and unproductive reporting of routine currency transactions, banks have been able to exempt currency transactions with certain depositors where such transactions are customary and do not exceed amounts which the bank may reasonably conclude are commensurate with the conduct of the lawful, domestic business of that customer.

The proposed revision would have limited the exemption to an established depositor who is a U.S. resident and operates a retail type of establishment within the United States. A number of comments asked that the term "retail" be defined in the regulations and suggested that the exemption provision should include other types of businesses, as well as government agencies.

The final rule provides a definition of retail type of business and allows banks to also exempt currency transactions with state, local, or Federal government agencies where such transactions are customary and commensurate with the authorized activities of the agency. It is expected that those exemptions will be limited to retail type businesses that operate from commercial premises. Exemptions also may be granted when warranted for certain transactions of an established depositor who is a United States resident and operates a sports arena, race track, amusement park, bar, restaurant, hotel, check cashing service licensed by state or local governments, vending machine company, theater, or a firm that regularly withdraws more than $10,000 in order to pay its employees in currency. Banks may apply to the Assistant Secretary (Enforcement and Operations) for additional authority to grant an exemption if the bank believes that specific circumstances warrant such authority. Requests should be addressed as follows:

Exemption Staff, Room 1134, Office of Enforcement and Operations, U.S. Treasury Department, Washington, D.C. 20220.

3. One comment asked about the identification requirements for the customer's name and address, questioning whether the bank would be expected to verify the authenticity of the documents presented by the customer for identification. Bankers and shopkeepers normally ask for identification when a stranger presents a bank check or traveler's check to be cashed or accepted as payment. The same guidelines will apply when recording or reporting an unusual currency transaction.

4. Another comment asked whether microfilm and microfiche reproductions of currency reports will be accepted for purposes of record retention.

Compliance by banks with the requirements of the regulations is checked by bank examiners employed by the Federal Reserve System, the Federal Deposit Insurance Corporation, or the Comptroller of the Currency. Savings and loan associations are checked by the Federal Home Loan Bank Board. In order for the bank examiner to determine that the regulations are being complied with, it is necessary that a copy of the report be available among the bank records. A microfilm or microfiche copy of the report is acceptable for this purpose.

5. One commenter asked whether the term other "domestic banks" used in the proposal would include savings and loan associations. It does. Section 103.11 of the regulations defines the term "bank" as including:

* * * * *

"(3) A savings and loan association or a building and loan association organized under the laws of any State or of the United States;"

Definitions contained in § 103.11 apply to each of the regulations in Part 103.

6. Another comment suggested that the proposal represents a potential invasion of a bank customer's reasonable expectation of privacy in his financial affairs. This is not so; reports are only required for unusual cash transactions involving more than $10.000 by individuals or by businesses that have not been exempted and, as a result, relatively few bank transactions are reported. Although commercial banks alone are estimated to have processed in excess of 30 billion transactions in 1979, only about 120.000 reports were filed, less than one for every 200.000 transactions.

In establishing the reporting requirements, Congress found that the reports can be highly useful in criminal, tax, and regulatory investigations. Experience has shown that, frequently, such transactions are indications of illegal activities.

7. Another comment opposed the requirement that intercorporate dealings be reported, such as those between foreign and domestic subsidiaries of financial institutions. However, the overwhelming majority of such transfers are made in the form of bookkeeping entries and are not reportable under the regulations. Information from the financial community and the Customs Service indicates that the number of physical transfers of large amounts of currency between related banking entities is relatively small. The additional information that will be provided as a result of the amended regulations is needed for law enforcement purposes. There is increasing evidence that large amounts of currency related to illegal activities is being smuggled out of the U.S. and deposited in banks in foreign countries to evade scrutiny by U.S. authorities. The additional reports concerning these currency shipments will substantially improve the Treasury Department's ability to detect questionable movements of currency.

8. A nonbank financial institution commented on the duplication in the reporting of currency transactions between banks and nonbank financial institutions that would result under the proposed amendment. The final regulation has been changed to exempt the nonbank financial institution from reporting such transactions. Banks, however, must report them.

9. One bank commented that as initially proposed, the regulations appeared to require banks to determine the nationality of a person presenting a currency transaction before accepting the transaction. Such a procedure could have placed an undue burden on the banking industry. Consequently, the amendment has been changed to make it clear that a bank is required to follow the identification procedure required for aliens only when a bank has reason to believe that the customer is an alien. If for example, when a banker requests a taxpayer identification number, the customer states that he does not have one because he is not a resident, the banker should request an official document evidencing nationality or residence.

Drafting Information

The principal authors of this document are William W. Nickerson, Deputy Assistant Secretary (Enforcement) and Robert J. Stankey, Jr., Adviser to the Deputy Assistant Secretary (Enforcement). However, other personnel of the Office of Enforcement and Operations and the Office of the General Counsel participated in its development.

Authority and Issuance

Accordingly, the proposed regulations are being issued under the authority contained in the Currency and Foreign Transactions Reporting Act, 84 Stat. 1118, 31 U.S.C. 1051–1122, as follows:

Regulations

1. Section 103.22 of Part 103 of Title 31, Code of Federal Regulations, as revised, reads as follows:

§ 103.22 Reports of currency transactions.

(a) Each financial institution shall file a report of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution, which involves a transaction in currency of more than $10,000. Such reports shall be made on forms prescribed by the Secretary and all information called for in the forms shall be furnished.

(b)(1) Except as otherwise directed in writing by the Assistant Secretary (Enforcement and Operations), this section shall not: (i) require reports of transactions with Federal Reserve Banks or Federal Home Loan banks; (ii) require reports of transactions between domestic banks; or (iii) require reports by nonbank financial institutions of transactions with commercial banks.

(2) Except as otherwise directed in writing by the Assistant Secretary (Enforcement and Operations), a bank may exempt from the reporting requirement of this section the following:

(i) Deposits or withdrawals of currency from an existing account by an established depositor who is a United States resident and operates a retail type of business in the United States. For the purpose of this subsection, a retail type of business is a business primarily engaged in providing goods to ultimate consumers and for which the business is paid in substantial portion by currency, except that dealerships which provide automobiles, boats or airplanes are not included and their transactions are not exempt from the reporting requirement of this section.

(ii) Deposits or withdrawals of currency from an existing account by an established depositor who is a United States resident and operates a sports arena, race track, amusement park, bar, restaurant, hotel, check cashing service licensed by state or local governments, vending machine company, or theater.

(iii) Deposits, or withdrawals, exchanges of currency or other payments and transfers by local or state governments, or the United States or any of its agencies or instrumentalities.

(iv) Withdrawals for payroll purposes from an existing account by an established depositor who is a United States resident and operates a firm that regularly withdraws more than $10.000 in order to pay its employees in currency.

(c) In each instance the transactions exempted under paragraph (b) of this section must be in amounts which the bank may reasonably conclude do not exceed amounts commensurate with the customary conduct of the lawful, domestic business of that customer, or in the case of transactions with a local or state government or the United States or any of its agencies or instrumentalities, in amounts which are customary and commensurate with the authorized activities of the agency or instrumentality. This section does not permit a bank to exempt its transactions with a nonbank financial institution.

(d) A bank may apply to the Secretary for additional authority to grant an exemption to the reporting requirement.

otherwise provided for under paragraph (b) of this section, if the bank believes that circumstances warrant such an exemption. Such requests should be addressed to:

Exemption Staff, Room 1134, Office of
Enforcement and Operations, U.S.
Treasury Department, Washington,
D.C. 20220.

(e) A record of each exemption granted under paragraph (b) of this section and the reason therefor must be made at the time it is granted and all such exemptions must be kept in a centralized list. The record shall include the names and addresses of the banks referred to in paragraph (b)(1)(ii) of this section, as well as the name, address, business, taxpayer identification number, and account number of each depositor that has engaged in currency transactions which have not been reported because of the exemption provided in paragraph (b)(2) of this section. The record concerning the group of depositors exempted under the provisions of paragraph (b)(2) of this section should also indicate whether the exemption covers withdrawals, deposits, or both, as well as the dollar limit of the exemption. Upon the request of the Secretary, a bank shall provide a report containing the list of the bank's customers whose transactions have been exempted in accordance with the provisions of paragraph (b) of this section and such information as the Secretary may require. The exemptions may be reviewed by the Secretary who may require a bank to file the usual reports as prescribed in paragraph (a) of this section with respect to any customer whose transactions have been previously exempted.

(f) Reports required under paragraph (e) of this section must be mailed or otherwise delivered to the Secretary within 30 days after the bank receives the Secretary's request.

2. Paragraph (a) of § 103.25 of Title 31, Code of Federal Regulations, as revised, reads as follows:

§ 103.25 Filing of reports.

(a) A report required to be filed by paragraph (a) of § 103.22 shall be filed within 15 days following the day on which the transaction occurred. The reports shall be filed with the Commissioner of Internal Revenue on forms to be prescribed by the Secretary. All information called for in such forms shall be furnished. A copy of each report shall be retained by the financial institution for a period of five years from the date of the report.

* * * * *

3. Section 103.28 of Part 103, Code of Federal Regulations, as revised, reads as follows:

§ 103.28 Identification required.

Before effecting any transaction with respect to which a report is required under paragraph (a) of § 103.22, a financial institution shall verify and record the name and address of the individual presenting a transaction, as well as record the identity, account number, and the social security or taxpayer identification number, if any, of any person or entity for whose or which account such transaction is to be effected. Verification of the identity of an individual who indicates that he is an alien or is not a resident of the United States must be made by passport, alien identification card, or other official document evidencing nationality or residence. Verification of identity in any other case may be by examination of a document normally acceptable as a means of identification when cashing checks, for example, a driver's license or a credit card. In each instance, the method used in verifying the identity of the customer shall be recorded on the report.

Dated: May 28, 1980.

Richard J. Davis,
Assistant Secretary (Enforcement and Operations).

[FR Doc. [illegible] Filed [illegible] 8:45 am]

BILLING CODE 4810-25-M

EXHIBIT NO. 8

OF-64

From the desk of

D. M. DORMER

1/4/82

Chan

This procedure is acceptable as typed ~~and~~ with the document we have in our possession regarding this. One question - who specifically in Banking Administration is the responsible party?

Dan

[redacted]

ROUTING SLIP

APPROVALS OF: OR 64 REPORTING OF LARGE CURRENCY TRANSACTION

Date Circulated Mo.	Day	Year
1	25	82

PLEASE ROUTE IN THE ORDER BELOW:

APPROVER	DATE Rec'vd	DATE Forwarded	INITIALS
J.F. CROWLEY	1/26	1/26	JFC
J.B. YOUNG	out		
KEN O'HARA	2/9	2/9	
DAN DORMER	2/10	2/10	
J.F. STUCKE		19 Feb	

AFTER APPROVAL RETURN TO:

D. Chanmugham — I.S.S. DIVISION

X-5004 — TELEPHONE

MAIL STATION 99/25/24

A-539 (rev 2/81)

ROUTING SLIP

APPROVALS OF:

Date Circulated Mo.	Day	Year
1	25	82

PLEASE ROUTE IN THE ORDER BELOW:

APPROVER	DATE Rec'vd	DATE Forwarded	INITIALS
J. B. YOUNG	out		
T.M. GRIFFIN	1/28/82	2/1/82	

AFTER APPROVAL RETURN TO:

D. CHANMUGHAM — I.S.S. DIVISION

X-5004 — TELEPHONE

MAIL STATION 99/25/24

A-539 (rev 2/81)

ROUTING SLIP

APPROVALS OF:

Date Circulated Mo.	Day	Year
1	25	82

PLEASE ROUTE IN THE ORDER BELOW.

APPROVER	DATE Rec'vd	DATE Forwarded	INITIALS
J. B. YOUNG	out		
A.E. MCKINNON	2/1	2/1	

AFTER APPROVAL RETURN TO:

D. CHANMUGHAM — I.S.S. DIVISION

X-5004 — TELEPHONE

MAIL STATION 99 25 24

A-539 (rev 2/81)

FNBB
LAW OFFICE
..... 23 1982
E. McLEAN GRIFFIN

OP-64

Reporting of Large Currency Transactions

64
Revision 2

All Banking Offices
Coin and Currency
Banking Offices Administration

(This revision supersedes Operating Procedure No. 64, dated August 10, 1977 on the same subject. Changes are indicated by asterisks.)

The Bank Secrecy Act requires that all transactions involving more than $10,000 in currency be reported to the Internal Revenue Service (IRS) unless the transaction is done with an exempt customer whose business regularly involves large currency transaction. See IRS Form - 4789 (rev 9/80) for details on exempt transactions. The Bank need not file the IRS Form - 4789 for transactions with Federal Reserve Banks, Federal Home Loan Banks, or other domestic banks.

NOTE: Multiple transactions which total more than $10,000 in any one day should be treated as a single transaction if the Bank is aware of them.

Before beginning a non-exempt transaction the customer should be informed that the IRS will be notified of the transaction.

If the customer claims that he is on the exempt list with another banking office call that banking office and verify.

Procedures to comply with this legislation are as follows:

I. All Banking Offices and Coin and Currency

A. Exempt Transactions

1. Develop a list of exempt customers and send 2 copies to Banking Offices Administration. Retain a copy.

2. Advise Banking Offices Administration in writing of any additions to the exempt list. Retain a copy of the advice.

B. Non-Exempt Transactions

* 1. After the completion of any non-exempt transaction (deposit, withdrawal, exchange of currency, payments, or transfer) involving more than $10,000 in currency in any one day, complete in triplicate a Currency Transaction Report (IRS Form - 4789, Revised Sept. 1980, Bank Form MC-134). Refer to "General Instructions" on Form - 4789.

2. The identifying number in Part V of the Currency Transaction Report will always be 04-2472499.

3. In all cases, take a regiscope picture and enter the number in the margin of the form.

* NOTE: The name of the authorized signer must be typed or printed on the form.

4. Send the above report in duplicate to Banking Offices Administration. Retain a copy.

II. Banking Offices Administration

A. Exempt Transactions

1. Receive 2 copies of the exempt list and any additions to the list from the banking offices or Coin and Currency.

2. Send a copy of the above list to IRS when requested, and retain a copy for 5 years.

B. Non-Exempt Transactions

1. Receive the completed Currency Transaction Report in duplicate from the banking offices and Coin and Currency.

* 2. Send the original Currency Transaction Report to IRS, Ogden, Utah 84201, or hand carry it to the local IRS office by the 15th day after the date of the transaction.

* 3. Retain the copy of the report for 5 years from the date of filing.

Systems Research Department

Jean B. Young
Vice President

D. Chanmugham, Technical Writer
Project No. 5763
2826d

EXHIBIT NO. 9

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

DEPUTY ASSISTANT SECRETARY

APR 28 1982

Dear Sir:

Please provide us with a report listing those customers whose currency transactions were exempt from the reporting requirements in 31 CFR 103.22(a) at any time during the period January 1 through April 30, 1982.

Under the provisions of the regulations (copy enclosed), a bank is required to report currency transactions (IRS Form 4789) in excess of $10,000 to the Treasury Department. Although a bank may exempt deposits or withdrawals of certain depositors from the reporting requirement, it must upon request provide the Treasury Department with a report listing such depositors.

The reports should include the following information:

1. The name, street address, taxpayer identification number, and account number of the customer.
2. A brief description of the customer's business. For example: supermarket, restaurant, retail lumber, government services, etc.
3. Whether the exemption is for deposits, withdrawals, or limited to withdrawals for payroll purposes, and what the dollar limit is for each type of exemption granted to a customer.

The following is an example of a format that would be acceptable:

1. ABC Supermarket, Inc.
   1234 Dixie Highway
   Clear Springs, Florida 33123
   Retail Grocery
   Account Number
   Deposits: $20,000
   Withdrawals: $25,000
   TIN: 59-2345678

2. W. W. Smith
   BCD Citrus Growers
   Route 5
   Clear Springs, Florida 33123
   Orange Grower
   Account Number
   Withdrawals for Payroll: $25,000
   TIN: 59-1234567

Your report should be mailed within thirty (30) days to the following address:

Robert J. Stankey, Jr.
Office of Enforcement and Operations
U.S. Treasury Department, Room 1454
Washington, D. C. 20220

If you have any questions or would like additional information regarding this request, please have a member of your staff contact Mr. Stankey. His telephone number is 202-566-8022.

Sincerely,

(Signed)
Robert E. Powis
Deputy Assistant Secretary
(Enforcement)

Chief Executive Officer
First National Bank of Boston
100 Federal Street
Boston, Massachusetts 02110

Enclosure

EXHIBIT NO. 10

OFFICE OF THE SECRETARY OF THE TREASURY
WASHINGTON, D.C. 20220

JUN 8 1982

Dear Mr. Cox:

Thank you for your letter dated June 3, 1982, which transmitted a list of the depositors whose transactions your bank has exempted from the currency transaction reporting requirements in 31 CFR 103.22. A review of the list indicates, however, that it does not meet the requirements of the regulations.

We have enclosed a copy of your list. Check marks have been placed next to the items that are incorrect or require additional information.

In addition, X's have been placed to the left of the name to designate depositors that do not appear to be a type of establishment that a bank can put on its exemption list without the prior approval of the Treasury Department. Before such approval can be given, it will be necessary to have further information concerning the nature of the customer's business; the source of the currency being deposited and use of currency being withdrawn; the frequency of deposits/withdrawals of currency in excess of $10,000; the range of the amounts of currency deposited/withdrawn in recent months; and the maximum dollar limit of your proposed exemption for deposits or withdrawals.

The following information must be provided for each exemption:

- The local street address of the customer.
- A reasonable maximum dollar amount for each exemption granted. Usually there are different amounts for deposits and withdrawals. This information is not required, however, for savings and loans. Exemptions are not required for transactions of $10,000 or less.
- The depositor's Federal taxpayer identification number (nine digits).
- The depositor's account number.
- Type of business.

If you have any questions regarding our request for your exemption list or the requirements in 31 CFR Part 103, please call me. My telephone number is 202-566-8022.

Sincerely,

IRS
Form 4789 for dom'st'l deposit
4790
Compliance officer

Robert J. Stankey, Jr.
Adviser
Office of Enforcement & Operations

Mr. Hubert W. Cox
Manager
First National Bank of
Boston
100 Federal Street
Boston, Massachusetts 02110

EXHIBIT NO. 11

OFFICE OF THE SECRETARY OF THE TREASURY
WASHINGTON, D.C. 20220

July 12, 1982

MEMORANDUM FOR THE FILES

Subject: First National Bank of Boston

Dan Dormer, who identified himself as being in charge of the cash room, called to discuss reporting requirements under the Bank Secrecy Act. He indicated that the bank was not in compliance.

Robert J. Stankey, Jr.

EXHIBIT NO. 12

[illegible]
SEP 30 1982
EIC [illegible]

201-9
Prepared T. Rolla
Approved. JW

Cash Accounts

201-A Examination Procedures
201-B Cash and Cash Item Recap
201-C Description of INCP Accounts
201-D Financial/Recordkeeping Checklist
201-E Exemption List
201-F Mysterious Disappearances (9.5225)
201-G Security Procedures
201-H Summary memo
201-I Future Examination
201-J Foreign Currency
207-K Memos Financial Recordkeeping

EXAMINATION PROCEDURES - CASH ACCOUNTS

201-A

201.3

NAME OF BANK: FNB of Boston

DATE OF EXAMINATION:

REVISED FEB 1980

	Analysis Reference	Examiner	Comments
1. Document existing internal controls.	—	Rollo	No internal control deficiencies noted
2. Determine scope of examination.	--		Limited review due, expanded scope not necessary based on good internal controls
3. Test compliance with policies, procedures, etc., and determine if corrective action has been taken on deficiencies uncovered by internal/external audits.	—		No deficiencies noted by internal audit
4. Perform necessary verification procedures.	—		NA
5. Scan G/L cash accounts for unusual items.	201-C		Limited review done no unusual items noted.
6. Agree teller recap sheets to G/L. Scan for reasonableness.	201-B		Balances agreed to G/L
7. Obtain list of cash items. Agree to G/L and scan for reasonableness.	201-B		Bank does not issue separate cash items list. In discussion with Mike [illegible] G/L, these are all within 3 days old. Amount is insignificant and; most items are made up of [illegible] Bank's Tellers Over and Shorts
8. Test compliance with 12 CFR 21.	201-G		Security Procedures are adequate and no deficiencies have been noted in discussion with J. [illegible] 19th Fl
9. Review compliance with 31 CFR 103.22, 103.23, 103.33 and 103.34.	201-D		Compliance noted in this area. Minor exception noted in the area of return of incorrectly completed forms.
0. Review teller's over and short accounts for reasonableness.	—		Reports are contained in Herbert Cox's area (11th Floor) Monitoring of these reports and tellers are effective If a teller achieves $1000.00 in overs and shorts removed from teller window. Adequate [illegible] were noted for:

INTERNAL CONTROL QUESTIONNAIRE - DEPOSIT ACCOUNTS

NAME OF BANK

DATE OF EXAMINATION

	#	N/A	Yes	No	Substantiated by: Ing	Obser	Test	Comments
7) Are procedures in effect to preclude certification of checks drawn against uncollected funds?			X		✓			
)fficial Checks Conclusion								
8. Is the foregoing information an adequate basis for evaluating internal control in that there are no significant additional internal auditing procedures, accounting controls, administrative controls, or other circumstances that impair any controls or mitigate any weaknesses indicated above (explain negative answers briefly, and indicate conclusions as to their effect on specific examination or verification procedures)?			✓					
9. Based on a composite evaluation, as evidenced by answers to the foregoing questions, internal controls for official checks is considered Good. V (good, medium or bad).								
Compliance with the Requirements of the Financial Recordkeeping Act (31 CFR 103.33, 103.34 and 103.36)								
0. Are taxpayer identification numbers obtained for all new accounts?	✓		✓		✓			
1. Is a list maintained of customers for whom a taxpayer identification number has not been obtained?	✓		✓		✓			
2. Is a copy or the original of the following records retained for 5 years: a. Signature cards?	✓		✓		✓			
b. Statement ledger or other record reflecting each deposit account's transactions?	✓		✓		✓			
c. Each item, other than bank charges or periodic charges made pursuant to an agreement with the customer, charged to a deposit account, except for transactions specifically exempted under section 103.34(b)3?	✓		✓		✓			# Officer Number. Corresponds to bank personnel list contained in program.

First National Bank of Boston
Boston, Massachusetts
Sept.-30-1982

Conners

Prepared: T.Rollo
Reviewed:

201-H

Summary Memo- Cash Accounts

No violations of laws, rulings or regulations were noted in this area of the examination.

Scope of the examination included a review of the reconcilement process, general operating procedures and internal controls.

No deficiences were noted by the internal audit department or during the examination.

A review of compliance with 31CFR 103, Financial Recordkeeping was conducted and compliance was noted in all areas.

FIRST
BOSTON, MA
EXAM OF 9-30-82

EIC: CONNERS

PREPARED: FONG
REVIEWED: Costello

201-J

CASH (FOREIGN CURRENCY)

201-A	ICQ.
201-B	COMPLIANCE WITH "31 CFR".
201-C	FOREIGN CURRENCY TRADE PROCEDURES.

201-B

CC-1425-CL
(Rev. 9/80)
UNITED STATES TREASURY
COMPTROLLER OF THE CURRENCY

FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

EXAM: Sept.30,1982
NUMBER: 00200
NO OF OFFICES:
TOTAL ASSETS:

NAME OF BANK: First National Bank of Boston
CITY: Boston
COUNTY: Suffolk
STATE: Massachusetts

The department of the Treasury issued Regulations (Part 103, Title 31 CFR) effective July 1, 1972, to implement Titles I and II of Public Law 91-508. The Regulations, as revised, require banks to:

1. Report to the customs authorities shipments to or from a point outside the United States of currency or monetary instruments in amounts in excess of $5,000, except for shipments through the postal service or by common carrier;
2. Retain for five years records of all transfers into or out of the United States involving more than $10,000;
3. Retain for five years certain other records which will be useful for law enforcement purposes;
4. Retain for two years certain other bank records relating to demand deposit accounts;
5. Secure a social security or taxpayer identification number with respect to each account opened after June 30, 1972, or maintain a list of those customers who failed to provide a number; and
6. Report to the IRS currency transactions of more than $10,000, unless exempted.
7. Maintain in a central file required records of exemptions granted certain qualifying deposit accounts.

Under certain circumstances, the Regulations provide civil and criminal penalties for the failure to maintain the required records or to file the required reports. The penalties become more severe when the Regulations are violated in furtherance of certain Federal crimes.

The examiner should determine 1) that the bank has established an adequate system for identifying covered transactions and for insuring that they are properly reported and 2) that the employees who normally come into contact with the covered transactions are properly instructed as to their responsibility with respect to the system. Inadequacies in either of these two areas should be directed to the attention of management.

The following questions are designed to ascertain compliance with the Regulations. The examiner should complete the questions based on information obtained as a result of personal verification of records and reports, as well as observations and statements made by bank management.

	Yes	No
REPORTS REQUIRED TO BE FILED		
1. (a) Except for shipments made through the postal service, or by common carrier, and certain shipments involving established depositors, does the bank file a Report of International Transportation of Currency or Monetary Instrument (Form 4790) whenever it ships to or receives from a point outside the United States currency or other monetary instruments, on any one occasion, in an aggregate amount exceeding $5,000: (103.23).	X	
(b) Does the bank file a Currency Transaction Report, (Form 4789), of each deposit, withdrawal, exchange of currency or other transfer by, through, or to this bank which involves a transaction in currency, not exempted, of more than $10,000 in accordance with the regulations? (103.22)	X	
(c) Does the bank maintain a list of those customers whose transactions have been exempted from the requirements of section 103.22.	X	
GENERAL RECORDKEEPING REQUIREMENTS*		
2. Does the bank retain a record of each extension of credit over $5,000 except those secured by an interest in real property? (* 103.33)	X	
3. Does such record contain the name and address of the borrower, the amount, the nature and purpose of the loan and the date thereof? (* 103.33).	X	
4. (a) Does the bank attempt to obtain a taxpayer identification number for all new accounts? (* 103.34)	X	
(b) With respect to Certificates of Deposit (issued or redeemed), does the bank maintain a record of the date of transaction and a description of the instrument as well as the customers name, address, and taxpayer identification number, also, when Certificates of Deposit are issued, the method of payment? (103.34)	X	
(c) Does it keep a list of those customers from whom it has been unable to obtain a number after making a reasonable effort? (103.34)	X	
5. Does the bank with respect to each deposit account retain the original or a copy of the following: (* 103.34)		
(a) Each document granting signature authority over such accounts? (Signature cards should be retained for five years after accounts are closed.)	X	
(b) Each statement ledger card or other record on each account, showing each transaction with respect to that account?	X	
(c) Each item over $100 charged to deposit accounts, unless exempted by the Regulations?	X	
6. Does the bank retain for two years certain other bank records relating to demand deposit accounts sufficient to reconstruct a demand deposit account and trace a check in excess of $100 deposited in such account through its domestic processing system or to supply a description of a deposited check? (* 103.34)	X	
7. Are required records accessible within a reasonable period of time? (* 103.38)	X	
SPECIAL REQUIREMENTS FOR FOREIGN TRANSACTIONS*		
8. Does the bank retain a record of each instruction it gives or receives regarding a remittance or transfer of funds, currency, etc., of more than $10,000 sent outside the United States? (* 103.33)	X	
9. Does the bank retain a copy of each item, including checks, drafts, or transfer of credit, of more than $10,000 remitted or transferred outside the United States? (* 103.34)	X	
10. Does the bank retain a record (letter of transmittal, cash letter or application for a draft or transfer, etc.) or each remittance or transfer of funds, or of currency or other monetary instruments, checks, securities, or credit, of more than $10,000 to a person, account or place outside the United States? A complete description is required. In certain instances, the records retained to satisfy the requirements referred to in Items 9 and 10 above will also satisfy this requirement. (* 103.34)	X	
11. Does the bank retain a record of each check or draft in an amount in excess of $10,000 drawn on or issued by a foreign bank which the domestic bank has paid or presented to a non-bank drawee for payment? (* 103.34)	X	
12. Does the bank retain a copy of each item, including checks, drafts or transfer of credit, of more than $10,000, received directly, and not through a domestic financial institution, from a bank, broker, or dealer in foreign exchange outside the United States? (* 103.34)	X	
13. Does the bank retain a record (letter of transmittal, cash letter, etc.) or each receipt of currency, checks, etc. and transfer of funds of more than $10,000 received from a bank, broker or dealer in foreign exchange from outside the United States? (* 103.34)	X	
14. Does the bank, with respect to each account in a foreign country over which it has signature authority or in which it has financial interest retain records which show: (* 103.24)		
(a) the name in which the account is maintained;	X	
(b) the number or other designation of the account;	X	
(c) the name and address of the foreign bank or other person with whom the account is maintained;	X	
(d) the type of account; and	X	
(e) the maximum value of the account during the reporting period?	X	
15. Does the bank, with respect to each account in a foreign country over which it has signature authority or in which it has a financial interest report such relationship in accordance with the regulations? (* 103.24)	X X	

Unless otherwise indicated, the specified records that are created after June 30, 1972 must be retained for five years. (103.38).

Hubert Cox, Mgr. Metro Div. 11th Fl
Bank Official(s) Providing Information to Examiner

Examiner

(5)

FNBB
Boston MA
Exam: [illegible] 9-30-82
Prepared: Four
ICQ's / Comments
201-A/201-C
Related ICQ Question

Tibbs 2340
Don Dormer
6228

Cash Accounts: Domestic and International
Internal Control Questionnaire

Section 201.4

76. Has installation, maintenance and operation of security devices been in accordance with 12 CFR 21.3?

77. Do vaults, safes, ATM's, and night depositories meet or exceed the minimum standards described in Appendix A of 12 CFR 21?

31 CFR 103—Compliance Questionnaire

78. Are forms 4789 and 4790 completed and submitted within 15 days?

79. Has the bank established, in writing, formal operating procedures to ensure compliance with the regulation, or otherwise operated under standard nonwritten procedures if the volume of large currency transactions is not significant?

80. Do operating procedures set forth the reporting requirements of the regulation and establish compliance guidelines for large cash transactions and exemptions granted to customers?

81. Does the record retention schedule, at a minimum, include the record retention requirements of the regulation and contain requirements for the maintenance of lists of exempt customers with retail affiliations and customers from whom taxpayer identification numbers have not been obtained?

82. Has the bank established a program of employee education on the requirements of the regulation?
    a. Are tellers, through an ongoing training program, informed of the reporting requirements for large cash transactions?
    b. Are operations personnel made aware of the current requirements of the regulation and does management periodically reinforce the importance of compliance?

International Division

*83. Are foreign currency control ledgers and dollar book value equivalents posted accurately? Yes

*84. Is each foreign currency revalued at least monthly and are profit and loss entries passed to the appropriate income accounts? Yes; done monthly

*85. Are revaluation calculations, including the rates used periodically, reviewed for accuracy by someone other than the foreign currency tellers? Rates [illegible] [illegible] [illegible] [illegible] can be verified

*86. Does the internal auditor periodically review for accuracy revaluation calculations, including the verification of rates used and the resulting general ledger entries? Yes

Per Policies Cover operating Accounts

Conclusion

87. Is the foregoing information considered adequate as the basis for our evaluation of internal control in that there are no significant additional internal auditing procedures, accounting controls, administrative controls, or other circumstances that impair any controls or mitigate any weaknesses indicated above (explain negative answers briefly, and indicate conclusions as to their effect on specific examination or verification procedures)?

88. Based on a composite evaluation (as evidenced by answers to the foregoing questions), internal control is considered __________(good, medium or bad). A separate evaluation should be made for each area, *i.e.*, cash on hand, cash items, etc.

Procedures

Exam. Gui. – 4889

FOREIGN CURRENCY TELLERS OBTAIN RATES ON A DAILY BASIS FROM THEIR N.Y. BROKER. A 1% DIFFERENTIAL IS ESTABLISHED TO ABSORB COSTS (SHIPPING, etc FOR EACH TRANSACTION, A TICKET IS USED WHICH SHOWS THE CURRENT RATE AND THE U.S. DOLLAR EQUIVALENCY. EACH TELLER INVOLVED HAS THEIR NAME ON THE TICKET.

4

(Rev. 9/80)
UNITED STATES TREASURY
COMPTROLLER OF THE CURRENCY

201-D

FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS	EXAM Sept. 30, 1982	NUMBER 00200
	NO. OF OFFICES	TOTAL ASSETS

NAME OF BANK First National Bank of Boston

CITY Boston
COUNTY Suffolk
STATE Massachusetts

The department of the Treasury issued Regulations (Part 103, Title 31 CFR) effective July 1, 1972, to implement Titles I and II of Public Law 91-508. The Regulations, as revised, require banks to:

1. Report to the customs authorities shipments to or from a point outside the United States of currency or monetary instruments in amounts in excess of $5,000, except for shipments through the postal service or by common carrier;
2. Retain for five years records of all transfers into or out of the United States involving more than $10,000;
3. Retain for five years certain other records which will be useful for law enforcement purposes;
4. Retain for two years certain other bank records relating to demand deposit accounts;
5. Secure a social security or taxpayer identification number with respect to each account opened after June 30, 1972, or maintain a list of those customers who failed to provide a number; and
6. Report to the IRS currency transactions of more than $10,000, unless exempted.
7. Maintain in a central file required records of customers granted certain qualifying deposit accounts.

Under certain circumstances, the Regulations provide civil and criminal penalties for the failure to maintain the required records or to file the required reports. The penalties become more severe when the Regulations are violated in furtherance of certain Federal crimes.

The examiner should determine 1) that the bank has established an adequate system for identifying covered transactions and for insuring that they are properly reported and 2) that the employees who normally come into contact with the covered transactions are properly instructed as to their responsibility with respect to the system. Inadequacies in either of these two areas should be directed to the attention of management.

The following questions are designed to ascertain compliance with the Regulations. The examiner should complete the questions based on information obtained as a result of personal verification of records and reports, as well as observations and statements made by bank management.

REPORTS REQUIRED TO BE FILED	Yes	No
1. (a) Except for shipments made through the postal service, or by common carrier, and certain shipments involving established depositors, does the bank file a Report of International Transportation of Currency or Monetary Instrument (Form 4790) whenever it ships to or receives from a point outside the United States currency or other monetary instruments, on any one occasion, in an aggregate amount exceeding $5,000: (103.23).	X	
(b) Does the bank file a Currency Transaction Report, (Form 4789), of each deposit, withdrawal, exchange of currency or other transfer by, through, or to this bank which involves a transaction in currency, not exempted, of more than $10,000 in accordance with the regulations? (103.22)	X	
(c) Does the bank maintain a list of those customers whose transactions have been exempted from the requirements of section 103.22.	X	
GENERAL RECORDKEEPING REQUIREMENTS*		
2. Does the bank retain a record of each extension of credit over $5,000 except those secured by an interest in real property? (*103.33)	X	
3. Does such record contain the name and address of the borrower, the amount, the nature and purpose of the loan and the date thereof? (*103.33).	X	
4. (a) Does the bank attempt to obtain a taxpayer identification number for all new accounts? (*103.34)	X	
(b) With respect to Certificates of Deposit (issued or redeemed), does the bank maintain a record of the date of transaction and a description of the instrument as well as the customers name, address, and taxpayer identification number; also, when Certificates of Deposit are issued, the method of payment? (103.34)	X	
(c) Does it keep a list of those customers from whom it has been unable to obtain a number after making a reasonable effort? (103.34)	X	
5. Does the bank with respect to each deposit account retain the original or a copy of the following: (*103.34)		
(a) Each document granting signature authority over such accounts? (Signature cards should be retained for five years after accounts are closed.)	X	
(b) Each statement ledger card or other record on each account, showing each transaction with respect to that account?	X	
(c) Each item over $100 charged to deposit accounts, unless exempted by the Regulations?	X	
6. Does the bank retain for two years certain other bank records relating to demand deposit accounts sufficient to reconstruct a demand deposit account and trace a check in excess of $100 deposited in such account through its domestic processing system or to supply a description of a deposited check? (*103.34)	X	
7. Are required records accessible within a reasonable period of time? (*103.38)	X	
SPECIAL REQUIREMENTS FOR FOREIGN TRANSACTIONS*		
8. Does the bank retain a record of each instruction it gives or receives regarding a remittance or transfer of funds, currency, etc., of more than $10,000 sent outside the United States? (*103.33)	X	
9. Does the bank retain a copy of each item, including checks, drafts, or transfer of credit, of more than $10,000 remitted or transferred outside the United States? (*103.34)	X	
10. Does the bank retain a record (letter of transmittal, cash letter or application for a draft or transfer, etc.) of each remittance or transfer of funds, or of currency or other monetary instruments, checks, securities, or credit, of more than $10,000 to a person, account or place outside the United States? A complete description is required. In certain instances, the records retained to satisfy the requirements referred to in items 9 and 10 above will also satisfy this requirement. (*103.34)	X	
11. Does the bank retain a record of each check or draft in an amount in excess of $10,000 drawn on or issued by a foreign bank which the domestic bank has paid or presented to a non-bank drawee for payment? (*103.34)	X	
12. Does the bank retain a copy of each item, including checks, drafts or transfer of credit, of more than $10,000, received directly, and not through a domestic financial institution, from a bank, broker, or dealer in foreign exchange outside the United States? (*103.34)	X	
13. Does the bank retain a record (letter of transmittal, cash letter, etc.) of each receipt of currency, checks, etc. and transfer of funds of more than $10,000 received from a bank, broker or dealer in foreign exchange from outside the United States? (*103.34)	X	
14. Does the bank, with respect to each account in a foreign country over which it has signature authority or in which it has financial interest retain records which show: (*103.24)		
(a) the name in which the account is maintained:	X	
(b) the number or other designation of the account:	X	
(c) the name and address of the foreign bank or other person with whom the account is maintained:	X	
(d) the type of account; and	X	
(e) the maximum value of the account during the reporting period?	X	
15. Does the bank, with respect to each account in a foreign country over which it has signature authority or in which it has a financial interest report such relationship in accordance with the regulations? (*103.24)	X	

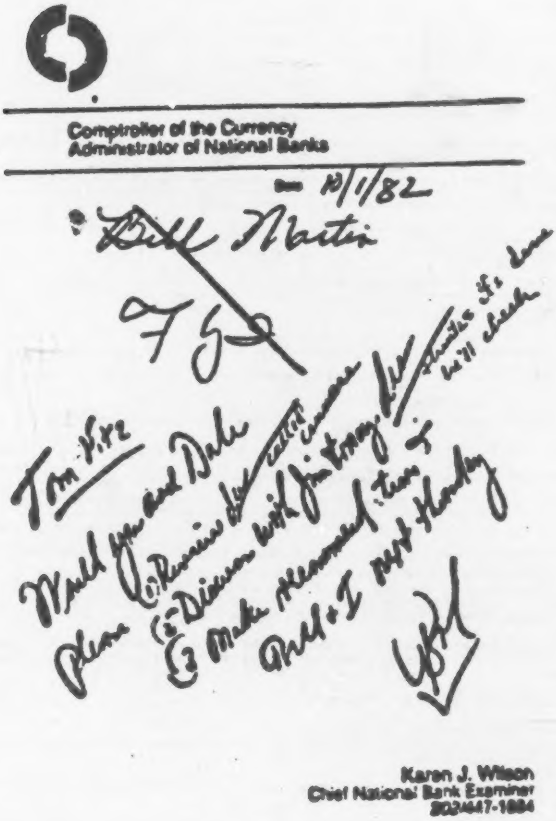
*Unless otherwise indicated, the specified records that are created after June 30, 1972 must be retained for five years. (*103.38).

Hubert Cox, Mgr. Metro Div. 11th Fl
Bank Official(s) Providing Information to Examiner

Examiner

The examiner should provide all details of apparent violations necessary for reporting to the Department of the Treasury.

EXHIBIT NO. 13



Comptroller of the Currency
Administrator of National Banks

Date 10/1/82

To Bill Martin

F G

Tom Vitz

Would you and Dale please (1) Review [illegible] letter [illegible] concerns (2) Discuss with Jim Tracy [illegible] (3) Make recommendations items [illegible]

Bill & I meet Monday

Thanks It's done will check

Karen J. Wilson
Chief National Bank Examiner
202/447-1884

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

DEPUTY ASSISTANT SECRETARY

SEP 21 1982

MEMORANDUM FOR: Karen J. Wilson
Chief National Bank Examiner
Comptroller of the Currency

FROM: Robert E. Powis
Deputy Assistant Secretary
(Enforcement)

SUBJECT: Compliance of Banks in Massachusetts with the Reporting Requirements of the Bank Secrecy Act

Recently, with the cooperation of James Tracey and your regional office in Boston, we conducted a review of compliance by Massachusetts banks with currency transactions reporting requirements. The review covered a four-month period from January through April, 1982 and included:

(1) a review of customer exemption lists of all Massachusetts banks;

(2) a survey of currency activity (deposits and shipments) of member banks with the Federal Reserve Bank of Boston; and

(3) a comparison of currency activity of member banks with Currency Transaction Reports (IRS Forms 4789) filed with IRS during the period.

Our review indicates that compliance with the reporting requirements of the Bank Secrecy Act by banks in Massachusetts is very low. The number and dollar amount of Currency Transaction Reports filed by banks in Massachusetts during the four-month period reviewed is not consistent with the large volume of currency involved in the transactions between member banks and the Federal Reserve Bank during the same period. Moreover, each exemption list received from the banks required additional contact to perfect the information reported or to require removal from the lists of non-qualifying bank customers. This indicates a noteable lack of understanding of the exemption provisions in the regulations.

The attached schedule lists the banks under your supervision that conducted substantial currency transactions with the Federal Reserve Bank of Boston during the period covered by the review. The schedule also provides data on the number and dollar volume of Currency Transaction Reports filed by each bank during the same period. Also attached is a U.S. Customs Service report of all Currency Transaction Reports filed by Massachusetts financial institutions during the review period.

All of the data indicates that a special compliance enforcement effort will be required, especially by the Federal agencies that supervise commercial banks, to raise the compliance level. I would appreciate your assistance in bringing this problem to the attention of the appropriate field officials who have direct responsibility for the examination of the banks in Massachusetts. We will, of course, be pleased to help you or your field personnel in any way we are able to.

I understand that an examination of the First National Bank of Boston is currently underway. Our review indicates that the First National Bank of Boston, which appears to purchase the largest amounts of currency from the Federal Reserve Bank of Boston ($926 million during the period January-April, 1982), has a very low level of compliance with the Bank Secrecy Act. The officer in charge of currency operations at that bank, in contacts with my office regarding exemption lists, has informed us that he is not completely familiar with the provisions of the Bank Secrecy Act regulations. Consequently, I would appreciate receiving a special feedback report on the 31 CFR Part 103 compliance examination of the First National Bank of Boston. We are especially interested in the trans-shipments of currency by the bank to correspondent banks and internationally. The information concerning correspondent activity is needed to assess the compliance of the correspondent banks that do not deal with the Federal Reserve Bank.

If you have any questions regarding the attachments or our request for special assistance in Massachusetts, please call me or have a member of your staff contact Robert Stankey of this office.

Attachments

EXHIBIT NO. 14

MEMORANDUM

Comptroller of the Currency
Administrator of National Banks

First National Bank Region
Harbor Plaza — Eighth Floor
470 Atlantic Avenue
Boston, Massachusetts 02110

To: Karen J. Wilson Chief National Bank Examiner
Ralph Gridley Regional Administrator of National Banks Region One

From: Thomas E. Rollo ANBE TER
Steve Conners NBE

Date: October 8, 1982

Subject: 31 CFR 103 Financial Recordkeeping Requirements

During the examination of the First National Bank of Boston, a review was made for compliance with 31 CFR 103. A minor deficiency was noted due to lack of taxpayer identification information. This information is currently being prepared by Mgr. Cox. Also it was noted Mr. Cox has no control over the return of incorrect forms (4789) filed by the individual branches. In the future all returned forms will come to his attention.

Upon receipt of the letter from Deputy Assistant Secretary Robert E. Powis dated Sep-21-1982, investigation was conducted to ascertain the discrepancy between the amounts of money shipped to and received from the Federal Reserve Bank of Boston. The First of Boston is a wholesale operation, selling large amounts of currency to various banks throughout New England. These amounts substantially account for the discrepancy noted. (See Exhibit A) Too, the names and addresses of the banks as referred to in 31 CFR 103.22 paragraph (b)(1)(ii) were not included on the banks exemption list as defined by 31 CFR 103.22(e). In the future these banks will be included on the exemption list so that the discrepancy in shipments can be easily ascertained.

Discussion with V.P. Dan Dormer, Officer in Charge Coin and Currency First of Boston, determined he was unaware of the regulations concerning International Transactions, and as such had not reported them. He stated that all International Currency shipments could be traced over the past four years. This would take approximately three weeks to complete. He has been in contact with a Mr. Stankey Enforcement and Compliance U. S. Treasury Department on this matter.

Approximately two additonal man days were expended on this request.

Trans-Shipments of Currency

FNB of Boston

Banks	Jan.	Feb.	Mar.	Apr.	Total
Banks	167.2	219.8	287.8	279.6	954.4
Baytanks	88.4	71.8	92.0	76.3	328.5
5-39 Branches	25.9	32.4	38.1	32.5	128.9
Customers	8.3	5.7	7.6	6.7	28.3
International (Swiss)	10.4	0	10.3	16.7	37.4
	300.2	329.7	435.8	411.8	1,477.5
See Explanation Below*	(145.0)	(145.0)	(145.0)	(145.0)	(580.0)
	155.2	184.7	290.8	266.8	897.5
Total Fed Shipments	Jan.-- Apr 925.7				
Total Bank Shipments	28.0 897.7				897.5

* Represents currency (avg/month based on 4 2/3 weeks) that banks do not want the First of Boston to count due to fees charged for this service. These banks ship this currency directly to the Federal Reserve. The Federal Reserve then credits the First of Boston account.

All questions should be addressed to:

Dan Dorner Officer in Charge Coin & Currency First National Bank of Boston

Bert Cox Manager Metropolitan Division First National Bank of Boston

EXHIBIT NO. 15

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

DEPUTY ASSISTANT SECRETARY

DEC. 8 1982

MEMORANDUM FOR: Karen J. Wilson
Chief National Bank Examiner
Comptroller of the Currency

FROM: Robert E. Powis
Deputy Assistant Secretary
(Enforcement)

SUBJECT: Compliance of Banks in Massachusetts with the Reporting Requirements of the Bank Secrecy Act

On September 21, 1982, we wrote to you about the apparently low level of compliance with the reporting requirements of 31 CFR Part 103 by banks in Massachusetts. A list of banks that had substantial currency activity with the Federal Reserve Bank of Boston but had reported little currency activity with customers was provided to you at that time.

Although my memorandum indicated the need for a special compliance effort, it did not specifically request that we be informed concerning the nature of that special effort and your findings. I hope that you will be able to compensate for our oversight and provide us with the desired information. We realize that your actions may not, as yet, be complete; however, we would appreciate a status report in the interim.

If you have any questions, please have a member of your staff contact Robert Stankey of my staff at 566-8022.

EXHIBIT NO. 16

Report of Examination commenced 9-[illegible]-82

Violations of Law for 31CFR 103

31 CFR 103 - Financial Recordkeeping and Reporting of Currency and Foreign Transactions

Although currency transactions between domestic banks are exempt from the reporting requirements of this regulation, noncompliance was noted with Section 103.22(e). This section states that a record of each exemption (including domestic banks) and the reason therefore must be made at the time the exemption is granted and that all exemptions be kept in a centralized list. Also, the record must include the names and addresses of all exempted banks. Corrective action was taken during the examination.

EXHIBIT NO. 17

MEMORANDUM

Comptroller of the Currency
Administrator of National Banks

First National Bank Region
Harbor Plaza — Eighth Floor
470 Atlantic Avenue
Boston, Massachusetts 02110

FILES

Ralph W. Gridley, Regional Administrator of National Banks

January 4, 1983

12 CFR 31-103

Agent Mark Schwartz with the Customs Department visited with National Bank Examiner Stephen J. Conners and myself today to obtain an update of our examination findings in the recently completed First National Bank of Boston.

Mr. Schwartz has had an ongoing interest in the appropriate filings of Currency Transactions Reports (CTRs). His Agency has been involved with local agents from the IRS and FBI to determine if laundering operations are being conducted through our banking system. Based on comments he offered today, a local task force is being assembled under the direction of the U.S. Attorney's Office to conduct in-depth investigations. In addition to inquiring as to the availability of assistance to this task force from our Office, he made specific inquiry as to any violations that we may have discovered during our examination of the First National Bank of Boston.

National Bank Examiner Conners presented an overview of his findings including the observation that he believed the bank to be in substantial compliance.

Mr. Schwartz did ask for a copy of Mr. Conners' internal memorandum to this Office, which we agreed to provide him. (Suspended pending approval from Serino). Blank copies of our work programs to insure compliance with 12 CFR 31 had been previously supplied.

The visitor did offer that the initial meeting of the task force members will be conveening in the near future. In response to his request we agreed to participate at that meeting to offer whatever input we could in terms of their developing a strategy. He was also advised that we would check with our Washington Office to ascertain what role we could play in assisting them, and also to the extent to which we would be allowed to share with them specific information obtained during the course of an examination.

CC: Robert Serino - E & C Div.

RWG:gcs

EXHIBIT NO. 18

Comptroller of the Currency
Administrator of National Banks

Washington, D.C. 20219

April 5, 1983

Mr. Robert E. Powis
Deputy Assistant Secretary (Enforcement)
Department of the Treasury
Washington, D.C. 20220

Dear Mr. Powis:

We appreciate the information received from you about 31 CFR 103 compliance in Massachusetts national banks. Our Boston regional office reviewed the data and will expand compliance procedures in several of the banks listed. We would like to report on the status of those examinations.

Massachusetts is scheduled for examination in June 1983. Our examiners will use 31 CFR 103 verification procedures during the examination.

Our office examined Massachusetts, in November 1982. The examiners did not disclose any violations of 31 CFR 103. They considered the bank's audit coverage of the regulation adequate. Because some branches of the bank had not reported any large currency transactions, a more in-depth review was performed at those branches. However, the examiners did not discover any reportable transactions.

Massachusetts, was examined in August 1982 using expanded procedures. As you requested, we forwarded a copy of the working papers for 31 CFR 103 to Mr. Robert Stankey.

An examination of Massachusetts, is in process. The regional office instructed the examiners to perform 31 CFR 103 verification procedures.

An examination of
Massachusetts, was started on March 14, 1983. Examiners will perform verification procedures.

Massachusetts, is scheduled for examination in May 1983. The examiners will perform verification procedures.

We will forward information about violations for any of the Massachusetts banks examined through our regular 31 CFR 103 quarterly report.

If you have further questions, please let me know.

Sincerely,

Karen J. Wilson

Karen J. Wilson
Chief National Bank Examiner

EXHIBIT NO. 19

Title 31 Banks

No.	Region/Districts	Prosecution Recommendations	Indictments/ Information	Guilty and Nolo Pleas	Total Convictions	Total Sentenced	Fines	Remarks
A	North Atlantic:							
	Manhattan District							
	1 Chemical Bank	4/76	2/77	4/77	4/77	4/77	$222,500	
	2 United American Bank	7/79	7/79	7/79	7/79	7/79	12,000	
	3 Rockland Trust Co.	3/84	9/84	9/84	9/84	9/84	50,000	
	4 Global Union Bank	6/84	6/84	11/84	11/84	11/84	63,750	
	5 Bank of Boston	2/85	2/85	2/85	2/85	2/85	500,000	
	6 Ausonian Credit Union	8/84	9/84	9/84	9/84	1/85	-0-	
B	Mid-Atlantic:							
	Newark District							
	1 Atco National Bank	6/83	6/83	6/83	6/83	6/83	$50,000	
	2 First National Bank In Ft Lee	3/83	4/83	6/83	6/83	6/83	7,000	
	3 First National Bk & Trust Co. Kearney	11/82	1/83	8/83	8/83	8/83	37,500	
	4 Mountain Ridge St	4/83	6/83	6/83	6/83	6/83	5,000	
C	Southeast:							
	Jacksonville District							
	1 Great American Bank	1/82	12/82	4/84	4/84	4/84	500,000	(125,000 suspended)
	2 Palm State Bank	10/80	2/82	8/82	8/82	9/82	2,000	
D	Midwest:							
	Chicago District							
	1 National Republic	1/83	7/83	8/83	8/83	8/83	$15,000	
	St Paul District							
	2 Princeton Coop. Cr.	5/83	5/83	8/83	8/83	9/83	-0-	
	3 Summit National Bank	9/82	9/82	4/83	4/83	4/83	2,000	
	4 Summit State Bank	11/82	11/82	4/83	4/83	4/83	~~-0-~~ 4,000	

No.	Region/Districts	Prosecution Recommendations	Indictments/ Information	Guilt and Nolo Pleas	Total Convictions	Total Sentenced	Fines	Remarks
	Midwest (cont'd)							
	Springfield Disrict							
5	Illinois National Bank	9/84	10/84	10/84	10/84	10/84	$10,000	
E	Southwest:							
	Austin District							
1	Community National	3/83	8/83	9/83	9/83	9/83	$2,500	
	New Orleans District							
2	Continental Bank	7/83	7/83	7/83	7/83	7/83	$3,000	
3	First National Bank	7/83	7/83	7/83	7/83	7/83	2,000	
	Oklahoma City District							
4	Southwestern Bank	8/83	8/83	8/83	8/83	8/83	-0-	
5	United Oklahoma Bank	8/83	8/83	8/83	8/83	8/83	$2,000	
F	WESTERN:							
	Los Angeles District							
1	Garfield Bank	6/81	7/81	11/81	11/81	11/81	$309,160	
	Reno District							
2	Pan American Bank	3/83	7/83	7/83	7/83	1/84	$95,000	
	TOTAL	24					$1,765,410.00	

ADDITONAL BANKS

1. Security State Trust & Savings Iowa District	$1,000 fine
2. O'Bannon Banking St. Louis District	$10,000 fine
3. Midland Bank & Trust Newark District	$2,500 fine
4. First Galesburg Springfield District	$1,000 fine

The following are the results of those investigations which denote the occupation of banking:

	FY 82	FY 83	FY 84	1st¼ 85	Total
Cases Started	105	93	125	57	380
Under Investigation				188	188
Prosecution Recommendation	44	41	63	12	160
Indictments/Information	23	29	42	24	118
Convictions	19	22	31	15	87

EXHIBIT NO. 20

SHAWMUT BANK OF BOSTON

UNREPORTED INTERNATIONAL CURRENCY TRANSACTIONS

	Deposits		Withdrawals		Totals	
	Number	Amount	Number	Amount	Number	Amount
7/5/80 to 12/31/80	140	12,993,216.50	22	1,953,000.00	162	14,946,216.50
1981	234	33,621,911.00	59	5,040,500.00	293	38,662,411.00
1982	244	31,481,176.00	73	6,127,000.00	317	37,608,176.00
1983	185	19,896,518.00	80	8,320,000.00	265	28,216,518.00
1984	254	42,873,383.00	62	6,209,000.00	316	49,082,383.00
1/85-2/85	20	3,810,412.00	8	1,217,500.00	28	5,027,912.00
Totals	1,077	144,676,616.50	304	28,867,000.00	1,381	173,543,616.50

Exhibit No. 21

Remarks by William L. Brown, Chairman, Bank of Boston, February 11, 1985

On Thursday last week the Bank pleaded guilty to a charge filed by the U.S. Attorney's office in Boston that we had failed to file reports with the Internal Revenue Service concerning currency transactions between us and foreign banks. Under the Currency and Foreign Transactions Reporting Act (Title 31 of the U.S. Code), banks are required to report to the IRS cash transactions with foreign banks of amounts in excess of $10,000.

As charged by the government, we did not file the required currency transaction reports during the period from July 1980 to September 1984. This statement is intended to clarify the background surrounding our guilty plea and to address several questions raised over the last several days.

There are two fundamental issues here. One is the violation of Title 31, which we admit: There was a failure in our reporting system. Second, is the suggestion that there is somehow a link between this "systems failure" and organized crime, which is being investigated by the Justice Department. To the best of our knowledge, this is absolutely untrue.

It has been suggested that large movements of currency in small denominations in and out of this country involves illegal activity. There is no evidence whatsoever in this case to support that suggestion.

There are, however, several points which have been reported in the media which need to be clarified or corrected. First, the shipments of currency whether from Bank of Boston to foreign banks or vice versa are strictly at the initiation of foreign banks and are either for deposit or withdrawal at each foreign bank's own account at Bank of Boston. Second, only banks are involved in any way with these transactions on either the shipping or receiving end; no individual or other non-bank customer is involved. Third, the large shipments of cash in small denominations have been from foreign banks to Boston, and not the reverse. Fourth, Bank of Boston has nothing to do with the decision of how much or in what form those shipments are made. In 99% of our shipments overseas, we are requested to and do ship in the form of "bricks" or bundles of new, sequentially numbered and recorded bills.

There is a related issue here. Somehow the impression has been left that a bank sending or receiving currency to or from another bank -- in this instance a foreign bank -- is somehow illegal or unsavory at the very least. Nothing could be further from the truth. We have been in this business for many, many years. Shipping currency is a business that is basic to banking and is highly competitive. There is nothing illegal or unsavory about this business whatsoever. We are continuing in this business. If any government official, any member of the media, or any member of the public knows any reason why this business or any aspect of it is illegal or unethical, we trust and hope any such person will bring it to our attention.

There also has been the suggestion that individuals carrying "bags" or "satchels" brimming with cash have managed to use this bank-to-bank cash transfer business for allegedly illegal ends. First, it is impossible for any individual to transfer cash overseas by utilizing this correspondent bank service; this service is strictly between banks. Second, I repeat that all of these transactions have been initiated by the foreign banks for their own accounts.

It has been reported in The New York Times in a statement attributed to Mr. John Walker of the Treasury Department that there is a large and growing market for American currency overseas, partly spurred by the rising strength of the dollar. He is reported to have said, however, that this is generally a legal market, where the banks involved in transferring the cash complied with the government's reporting requirement. He also is reported to have said that the $1.22 billion the bank transferred "is a much higher figure than is normal for one bank." Some might infer from these remarks that our transactions could be interpreted as illegal. Bank of Boston's international currency business is perfectly legal. The only legal issue was our failure to file the required reports with the Internal Revenue Service. While $1.22 billion over more than four years sounds like a lot of money, and it is, that number is relatively small when compared with our current monthly volume to our domestic correspondent banks of about $1.4 billion. While Bank of Boston is one of the largest participants in this business, we believe there are U.S. banks whose volume is comparable to or even greater than our own.

Much has also been made of our pleading guilty to "knowingly and willfully" violating Title 31. The U.S. Attorney is reported in the press as suggesting that our guilty plea was an admission that at all points in time we knew we should have filed these reports and that we simply failed to do so. In fact, as soon as we had determined that these reports were required to be filed, we did so for the entire period in question and are continuing to do so. Notwithstanding our action, the fact that one should have known and did not comply with a regulation is tantamount under the law to "knowingly and willfully" being in noncompliance. That is why we pleaded guilty - that we should have known and did not. We did not intentionally avoid complying with Title 31. The plea resulted from extended negotiations with the government to resolve the matter in a fashion that was acceptable both to the government and to the bank.

Finally, a personal note. I have been associated with this institution for 38 years and I have always been proud to say I work for Bank of Boston. I am as proud today as I was the first day I started. Bank of Boston's record of accomplishments, strengths and most of all integrity is a record that thousands of employees around the world have been proud to stand behind for 200 years.

I have asked Gene Tangney, Executive Vice President in charge of bank operations and corporate services, to explain the business side of these currency transactions, and Dick Wiley, Executive Vice President in charge of staff services, to comment on matters relating to the investigation. I will welcome questions at the conclusion of these remarks.

The Business of Currency Shipments

Remarks by Eugene M. Tangney
Executive Vice President
February 11, 1985

Bank of Boston has been engaged in international banking for many years. International banking has always involved the transfer of cash between banks in different countries, and Bank of Boston has historically participated in that business. Part of international banking is the business of providing to foreign correspondent banks United States currency when those banks request such shipments, and the receipt of United States currency from those foreign correspondent banks when they ship it into this country.

Western European banks are our primary customers for this service. These banks in turn maintain their own correspondent banking networks in their local markets and serve as clearing houses for their correspondents in satisfying other banks' requirements for U.S. currency. I will describe the actual steps taken in handling these shipments and receipts as set forth in the exhibits attached. You will note that all shipments were reported on U.S. Export Declaration forms, even though the IRS forms were overlooked.

The transfer of money throughout the world banking system is conducted basically in three ways: 1.) through checks; 2.) through electronic wire transfers; and 3.) through the sale and physical transfer of cash between banks. Currency is by far the smallest medium of the three.

Bank of Boston is one among several, mainly large money center banks, involved in the business of supplying U.S. currency to their correspondents, both international and domestic, and this is a business that we will continue to develop. As New England's largest correspondent bank, we are also the region's largest supplier of coin and currency to regional correspondents in the northeastern United States. Current volumes of currency shipments with our domestic correspondent banks average approximately $1.4 billion monthly. Total transactions for domestic shipments for the same period in question, July 1980 through 1984, were approximately 300,000 shipments for $40 billion, while total international currency shipments for that period were approximately 1200 shipments for $1.2 billion.

DOMESTIC

AVERAGE MONTHLY VOLUME OF MONEY TRANSACTION

Cash	$1.2 billion per month - shipments $ .2 billion per month - receipts
Check Processing	$18 billion per month
Checks Paid	$26 billion per month
Wire Transfer	$157 billion per month - receipt & payment
Total Average Amount Per Month	$202.4 billion

INCOMING

RECEIPT OF CASH FROM FOREIGN CORRESPONDENT BANK

STEP 1	Receive notice from foreign bank of detail of shipment and arrival time
STEP 2	Armored Car Company picks up shipment through U.S. Customs from airline
STEP 3	Receive cash shipment from Armored Car Company
STEP 4	Count the cash
STEP 5	Credit foreign bank account on our books

Currency Reporting Investigation

Remarks by Richard A. Wiley
Executive Vice President
February 11, 1985

We understand that during the late 1970s and early '80s the Federal government began investigations into compliance by banks with currency reporting requirements. During 1983, the government commenced an inquiry concerning currency transactions at Bank of Boston. However, it was not until the summer of 1984 that it became apparent to the Bank that the inquiry would concern international transactions. At that time, in preparation for an examination of our international area, the Bank began its own review of currency transactions with its foreign correspondent banks. It was discovered that, through error, no one at the Bank had implemented the regulations which had been amended in 1980 to require the reporting of cash transactions with foreign correspondent banks.

In conducting its review of the international reporting issue, the bank retained David McDonald, a Washington attorney, to inquire of the officials of the U.S. Treasury Department responsible for enforcing the law whether such international transactions needed to be reported. He was advised that they did, and as a result the Bank immediately began to file the delinquent reports. No effort was made by Mr. McDonald to terminate the Justice Department's investigation. Mr. Walker, chief enforcement officer at Treasury, is reported in the press as confirming that "neither Mr. McDonald nor Bank of Boston had tried to intercede to get the investigation stopped."

The Bank now has filed reports for all the transactions that went unreported during the period of July 1980 through September 1984 and has instituted administrative policies and procedures to comply with the reporting requirements in the future.

In pleading guilty to one count of non-compliance with the Federal regulation and agreeing to pay the maximum statutory fine of $500,000 for a single count, the Bank negotiated a settlement with the government. The potential penalties could have been far greater if various of the individual violations had been considered as separate counts.

The government has thoroughly investigated the Bank's compliance to date with the Currency and Foreign Transactions Reporting Act. As a result of that investigation, the government has determined not to bring any charges against the Bank other than those relating to the international transactions described in the Information. The plea agreement releases the Bank and its employees from any further liability relating to the reporting by the Bank of currency transactions that were the subject of the investigation. As far as we are concerned, therefore, the case is closed as to the Bank.

The Bank strongly supports the purpose of the government's investigations into illegal activities and at all stages of the investigation has cooperated fully. The government, of course, may at any time investigate transactions of particular customers.

COPY

February 21, 1985

The following statement was made today by William L. Brown, Chairman, Bank of Boston.

I have asked you here today for two reasons. The first is to correct some of the misimpressions that have been published and broadcast about Bank of Boston in connection with our plea of guilty to the charge of our failure to report certain international bank-to-bank currency transactions under the Currency and Foreign Transactions Reporting Act. We offer no excuses for our failure to report the international bank-to-bank currency transactions; for that failure we are sorry. We were at fault, have admitted it, and have paid the penalty. Our investigation of those transactions has found them to be transfers of dollars in the normal course of banking business to and from reputable foreign financial institutions, at their request. We have no reason to believe, as a result of our investigation that, except for the lack of reporting, there was anything irregular about those transfers. We are providing details on those international transactions in a background memorandum.

The second reason for this news briefing is that I am now able to talk more freely than I was a week ago about our banking relationships with the Angiulo family. The bank has been under restrictions preventing us from disclosing the transactions with the Angiulos. The public concern, however, has been such that we have gone to the Justice Department and asked them to permit us to talk freely. They have agreed.

The Angiulos have been customers of the bank for more than 20 years. Their transactions with the bank have been entirely domestic and have had nothing whatsoever to do with the bank's international currency shipments, or anything to do with the bank's failure to report international bank-to-bank currency transactions. The two matters are entirely different and separate, and I will deal with them separately here. But let me say at the outset, because there seems to be so much misunderstanding, that neither we nor, insofar as I know, the Justice Department nor anyone else has any evidence that the international transactions were in any way improper or had anything whatever to do with laundering money. In fact, these types of international transactions are a continuing part of the business of this and many other banks.

As to the Angiulos, the companies they controlled were placed on an exempt list in 1976 and 1979. It is important to understand what an exempt list is. It is a list of customers that handle large amounts of cash. What is exempted is the need for the bank to report to the IRS each customer transaction in excess of $10,000. The exempt list flags for the Federal Government those customers that frequently deal in large cash transactions. The list has always been available for inspection at all times by the Treasury Department. There is nothing illegal about any customer -- whether or not on the exempt list -- depositing or withdrawing more than $10,000. What is required is that immediate notification to the Treasury Department be made by the bank of such transactions by customers not on the exempt list. Records on all such transactions are available to the Treasury Department and bank examiners upon request, whether the customer is on the exempt list or not.

One Angiulo company, Huntington Realty Company, had been on such an exempt list since 1976. The other, Federal Investments, Inc., was added to the list in 1979. Such lists, as I have mentioned, are fully available to the government. In addition, more than a year ago, we turned over details of the Angiulos' individual transactions to a grand jury. We are providing details of these transactions in a second background memorandum.

We have concluded after thorough investigation that supervisory and operating personnel at the bank used poor judgment in putting the Angiulo companies on the exempt list. As a consequence we have revised and strengthened our procedures. Nevertheless, the very fact that the Angiulo companies were on the exempt list was clear-cut notice to the interested government agencies that these companies regularly dealt in large cash transactions.

Because our internal procedures failed to raise any questions regarding the Angiulos' accounts to the attention of top management, we have been at fault. Let me emphasize that we have been conducting investigations internally for a year and, again, we have no evidence whatsoever or any reason to believe, that any employee of the bank benefitted in any way from the transactions and accounts with the Angiulos. Any questions or even innuendo that there has been any "connection" with a crime syndicate is false.

While we support the Act's purpose to give the government an important tool to combat organized crime, I'd like to make it clear that the question of examining a customer's use of funds entrusted to the bank is not a normal part of banking practice. The Act does not impose an obligation upon banks -- or imbue them with the authority -- to investigate the activities of their customers beyond the normal recording of account information and verification of customer identity. To go beyond this raises serious questions about invasion of privacy. The whole banking community is reexamining its practices regarding the opening of new accounts. Certainly we at Bank of Boston are attempting to find proper answers. Part of the answer might be for the government to provide a list of individuals and companies that it believes should not have access to the banking system.

Management has thoroughly briefed the board of directors on all the details of our handling of all of the matters which I have discussed here today, and the board has expressed confidence in management. Nevertheless, as a result of the overall circumstances, I am convinced that a review of all of these matters is required in order to establish conclusively the soundness of the bank's operations and the integrity of its officers and employees. Accordingly, at my request, the board of directors has created a special committee consisting of five outside directors of the bank for this purpose.

The members of the special committee have elected George R. West as chairman. Mr. West is chairman and chief executive officer of Allendale Mutual Insurance Company. The other members include: Martin A. Allen, chairman of Computervision Corporation; Thomas A. Galligan, Jr., chairman, Boston Edison Company; Samuel Huntington, president and chief executive officer, New England Electric System; and J. Donald Monan, S.J., president of Boston College. A summary of the duties of the special committee is attached.

In conclusion, questions have been raised about whether the bank has taken these matters seriously enough. Let's not make any mistake about this. All of us have been not only distressed but deeply involved in getting at the truth through a thorough investigation. We are dedicated to making sure that all of the facts are laid out for our publics, and we ask your help in getting the story out. For thirty-five years I have been proud to say that I am associated with what I consider the finest bank in the world. I still am, and so are all my associates at Bank of Boston.

MEMORANDUM CONCERNING INTERNATIONAL CURRENCY TRANSACTIONS

On February 7, Bank of Boston pleaded guilty to a charge filed by the U.S. Attorney's office in Boston that we had failed to file reports with the Internal Revenue Service concerning currency transactions between us and foreign banks. Under the Currency and Foreign Transactions Reporting Act (Title 31 of the U.S. Code), banks are required to report to the IRS cash transactions with foreign banks of amounts in excess of $10,000.

As charged by the government, we did not file the required international currency transaction reports during the period from July 1980 to September 1984.

There are several points which need to be emphasized:

o First, the shipments of currency -- whether from Bank of Boston to foreign banks or vice versa -- are strictly at the initiation of foreign banks and are either for deposit or withdrawal at each foreign bank's own account at Bank of Boston.

o Second, only banks are involved in any way with these transactions on either the shipping or receiving end; no individual or other non-bank customer is involved.

o Third, Bank of Boston has nothing to do with the decision of how much or in what form those shipments are made. In 99% of our shipments overseas, we are requested to and do ship in the form of "bricks" or bundles of new, sequentially numbered and recorded bills.

Bank of Boston has been engaged in international banking for many years. International banking has always involved the transfer of cash between banks in different countries, and Bank of Boston has historically participated in that business. Part of international banking is the business of providing to foreign correspondent banks U.S. currency when those banks request such shipments, and the receipt of U.S. currency from those foreign correspondent banks when they ship it into this country.

Western European banks are our primary customers for this service. These banks in turn maintain their own correspondent banking networks in their local markets and serve as clearing houses for their correspondents in satisfying other banks' requirements for U.S. currency.

There is nothing illegal or at all unsavory about a bank sending or receiving currency to or from another bank -- foreign or domestic. In this regard, it bears repeating that it is impossible for any individual to transfer cash overseas by utilizing this correspondent bank service; this service is strictly between banks. Again, it should be emphasized that all such transactions are initiated by the foreign banks for their own accounts and that virtually all cash shipped overseas by the Bank is provided directly by the Federal Reserve Bank of Boston in new, sequentially numbered and recorded bills. Additionally, when shipping currency from Boston, the Bank has always filed export declaration forms with U.S. Customs.

During the late 1970s and early 1980s, the Federal government began investigations into compliance by banks with currency reporting requirements. In 1983, the government commenced an inquiry concerning currency transactions at Bank of Boston. During the summer of 1984, it became apparent to the Bank that this inquiry would concern not only domestic currency transactions, but also international transactions. At that time, in preparation for an examination of its international area, the Bank began its own review of currency transactions with its foreign correspondent banks. It was discovered that although the Bank had been properly notified of changes in the international reporting requirements, the Bank did not incorporate this regulatory amendment into its operating procedures. Those procedures have now been completely updated to ensure compliance with the reporting requirements in the future.

The government has investigated the Bank's compliance to date with the Currency and Foreign Transactions Reporting Act. As a result of that investigation, the government has determined not to bring any charges against the Bank other than those relating to the international transactions. The Bank negotiated a plea agreement that releases the Bank and its employees from any further liability relating to the reporting of currency transactions that were the subject of the investigation.

The government does, however, reserve the right to proceed against the Bank or any employee if it determines that any employee was in complicity with any third party not to file currency transaction reports. The Bank has no evidence nor any reason to believe that any such complicity exists.

OUTGOING

CORRESPONDENT BANK

INTERNATIONAL CASH SHIPMENTS

STEP 1

Foreign bank orders currency (with verification)

STEP 2

BKB orders currency from Federal Reserve Bank

STEP 3

BKB packages currency received from Federal Reserve Bank

STEP 4

BKB prepares U.S. Customs Form describing shipment

STEP 5

BKB deducts amount of shipment from foreign bank's account on BKB's books

STEP 6

Armored car company picks up shipment and delivers to airline, where it is inspected by U.S. Customs Officers

STEP 7

BKB wires foreign bank on details of shipments and arrival time